



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      O, FF;   O

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- other remedies, identified as an order of possession based on a fixed term tenancy agreement, pursuant to section 55; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- other remedies, identified as a declaration of the continuation of the tenancy on a month-to-month basis on the terms of the written tenancy agreement.

The tenant and her advocate, WP (collectively "tenant") and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant confirmed that her advocate had permission to speak on her behalf at this hearing.

The hearing and settlement process were explained to both parties, who affirmed their understanding. This hearing lasted approximately 50 minutes in order to allow both parties to fully negotiate a settlement of this matter.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

The tenant's advocate confirmed that the tenant's 10-page written evidence package was sent by way of facsimile to the landlord on November 16, 2016. I received the

package on November 15, 2016 at the Residential Tenancy Branch ("RTB"). The landlord testified that he did not receive the package. During the hearing, I advised both parties that I could not consider the tenant's 10-page written evidence package. The landlord did not receive the evidence and it was late, since it was served less than 14 days prior to this hearing date, contrary to Rule 3.14 of the RTB *Rules of Procedure*. Further, the parties received a letter, dated November 9, 2016, from the RTB, indicating that no new evidence would be permitted at this current hearing after the last RTB hearing on October 12, 2016. In any event, this matter settled without reference to the evidence.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on February 28, 2017, by which time the tenant and any other occupants will have vacated the rental unit;
2. The landlord agreed to bear the cost of the \$100.00 filing fee paid for his application; and
3. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

### Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on February 28, 2017. The landlord is provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on February 28, 2017. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord must bear the cost of the \$100.00 filing fee paid for his application.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 18, 2016

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Residential Tenancy Branch