



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPM, OPQ, FFL

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act). The landlord applied for an order of possession based on a Mutual Agreement to End Tenancy, for an order of possession because the tenant has ceased to qualify for subsidized rent, and for recovery of the filing fee paid for this application.

The landlord's agents (landlord) attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail. The landlord provided the copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. These numbers are located on the style of cause page in this Decision.

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The hearing process was explained to the landlord's agents and they were given an opportunity to ask questions about the hearing process. Thereafter, the landlords were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Procedural Matter

After the hearing had concluded on the merits of the landlord's application, in the absence of the tenant, and prior to disconnecting from the hearing, someone called into the hearing, identifying herself as the tenant's friend. Upon my inquiry, the friend said the tenant had papers to call into the teleconference hearing. Although the friend called into the hearing 11 minutes after it had started, it was not clear if the tenant was present; however, I informed the friend that the hearing had concluded and that I would be granting the landlord's application. The friend asked what this meant and it was explained to her.

Shortly thereafter, the hearing was discontinued.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit and to recovery of their filing fee paid for this application?

### Background and Evidence

The landlord submitted evidence this tenancy began on June 1, 2016.

The landlord also submitted a copy of a Mutual Agreement to End Tenancy document signed by the parties on July 26, 2019, in which the parties agree in writing that the tenancy would end on September 30, 2019, at 1:00 p.m. The landlord testified that the tenant breached that agreement by failing to vacate the rental unit on September 30, 2019 or any date thereafter as the tenant continues to occupy the rental unit.

The landlord said that the rent for December 2019 was paid and requested that an order of possession be effective on December 31, 2019.

### Analysis

Based on the undisputed documentary evidence from the landlord and undisputed testimony provided by the agents at the hearing, and on the balance of probabilities, I find the following.

**Order of possession** - I find that pursuant to section 44(1)(c) of the Act the parties mutually agreed in writing to end the tenancy on September 30, 2019 at 1:00 p.m. This is supported by the Mutual Agreement submitted in evidence and the testimony before me.

At the landlord's request, I grant the landlord an order of possession effective **December 31, 2019 at 1:00 p.m.**

As the landlord has succeeded with their application, I grant the landlord the recovery of the cost of the filing fee pursuant to section 72 of the *Act* in the amount of \$100.00.

After a discussion at the hearing, with the landlord's agreement, I direct the landlord to withhold the amount of \$100.00 from the tenant's security deposit in satisfaction of the cost of the filing fee.

#### Conclusion

The landlord's application is successful.

The landlord has been granted an order of possession effective December 31, 2019, at 1:00 p.m. This order must be served on the tenant to be enforceable and may be enforced in the Supreme Court of British Columbia. I find the tenancy ends on December 31, 2019, at 1:00 p.m.

The landlord is granted recovery of the filing fee of \$100.00 under the *Act* as noted above.

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: December 17, 2019

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Residential Tenancy Branch