



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: *MT, CNL, ERP, RP, RR*

## Introduction

This hearing dealt with an application by the tenant for:

- An order extending the time to make an application to cancel a Notice to End Tenancy
- An order cancelling the landlord's Notice to End Tenancy for Landlord Use
- An order to make repairs to the rental unit
- An order to allow the tenant to reduce rent for repairs.

Both parties attended the hearing and had an opportunity to be heard.

The tenant gave affirmed testimony that the Notice to End Tenancy was delivered to her on July 26, 2008 and she applied for dispute resolution on August 8, 2008. As per section 49(8) of *The Residential Act*, a tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice. Accordingly, the tenant is within the time limit to apply for dispute resolution and an order to extend the time to make an application is not required.

### Issue(s) to be Decided

Did the landlord provide and maintain the residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and make it suitable for occupation by the tenant?

Does the landlord intend in good faith to occupy the rental unit?

### Background and Evidence

The tenancy started on June 01, 2007 and the tenancy agreement is signed by the tenant and a roommate who is also a witness for the landlord. During the tenancy, the tenant reported problems with the plumbing, electrical wiring and rodent and silverfish infestations. The landlord responded by hiring the relevant tradesmen to attend to the problem.

#### Plumbing

A plumber was hired and he made visits to the rental unit in May, June and July 2008. The landlord submitted into evidence the invoices from the plumber. The tenant continued to complain of a foul odour in the rental unit and on a subsequent visit, the plumber provided a written statement to the landlord stating that he could not detect any leaks or odours.

#### Electrical Wiring

In August 2007, the tenant reported an exposed wire in the basement. The landlord hired an electrician to attend to the matter and has submitted into evidence, verification of the same

#### Silver fish

In June 2007, the tenant reported the presence of silver fish in the rental unit. The tenant's room mate advised the landlord that he would treat the problem himself using borax and sugar. The room mate gave affirmed testimony to confirm the above and stated that at the time they were able to control the problem by using plastic containers to store their items.

### Pest Control

In November 2007, the tenant complained of a rodent and cockroach problem and the landlord hired a commercial pest control company to take care of the problem. The landlord has submitted into evidence a receipt for payment made to the company.

The landlord stated that he is currently living in a travel trailer in Chemainus as his son is in the process of purchasing his home in Duncan. The landlord's son is occupying the home along with his wife and six kids. The landlord owns an Appliance business in Duncan. His sons run the family business, as the landlord is now semi retired. The landlord stated that he has decided to live in the rental property, so that his wife can provide babysitting services for their grandson. The landlord also stated that he did not want to continue to live in the trailer during winter and requested an order of possession effective September 30, 2008

### Analysis

The oral and written submissions of the parties have been considered, as well as the photographs and receipts submitted by both parties. Based on the information before me I find that the landlord attended to the tenants complaints and fulfilled his obligations to repair and maintain the rental unit.

With respect to the tenant's application for compensation, Section 67 of the Act allows either a landlord or a tenant to make a claim against the other. The claim may be for payment of a debt, or for an award of damages. The claim must result from a failure to live up to the terms of a tenancy agreement or the Act. The burden of proof rests with the one who makes the claim, to show not only that they are owed a debt or have suffered damages, but that this is the result of action (or inaction) by the other party.

The tenant has not established that she is entitled to the award sought. The application under section 65 is dismissed. I also find that the tenant is not entitled to the cost of filing this application.

With respect to the notice to end tenancy, I find that the landlord has established grounds to end the tenancy and hence the Notice is upheld.

Both parties are reminded that section 51(1) of the Act is applicable under these circumstances, as this tenancy ended pursuant to section 49 of the *Act*. For the benefit of both parties, section 51(1) states that a tenant who receives a notice to end a tenancy under section 49 is entitled to receive from the landlord an amount that is the equivalent of one month's rent. The tenant may withhold the amount from the last month's rent.

### Conclusion

On the basis of the landlord's testimony, I am issuing an Order of Possession that requires the Tenant to vacate the rental unit on or before September 30, 2008. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

September 9, 2008  
Date of Decision

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