



# **Dispute Resolution Services**

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

## **Decision**

**Dispute Codes:** CNR, FF

## **Introduction**

This hearing dealt with an application from the tenant to cancel the landlord's 10 day notice to end tenancy for unpaid rent, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

## **Issues to be decided**

- Whether the tenant is entitled to either of the above

## **Background and Evidence**

As the tenant claims not to be fluent in English, he was represented in the hearing by his agent who acted as a translator.

There is no written residential tenancy agreement in evidence for this tenancy. Further, it is not clear when the tenancy began with respect to this particular tenant and how many tenants actually reside in the subject unit.

Rent in the amount of \$900.00 is payable on the first day of the month, and it is understood that a security deposit of \$420.00 was paid.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated June 5, 2009. The landlord's agent states that the notice was posted on the tenant's door on that same date; on the other hand, in his application the tenant states that the notice was handed to him in person on June 15, 2009, the date shown on the notice by when the tenants must vacate the unit.

A copy of the notice was submitted into evidence. The notice shows that rent due on June 1, 2009 in the amount of \$900.00 is outstanding. The tenant claims he paid rent for June. The landlord's agent states that May's rent was not paid and when he received payment from the tenant in June, he applied it against unpaid rent for May. The tenant claims he has a receipt for the allegedly unpaid rent but that it was left with the police. The landlord's agent states that the tenant is not telling the truth.

The landlord's notice names two tenants; one tenant's name appears in full, whereas the other tenant is named using only a first or middle name. It is this latter tenant who is the applicant in this dispute and in attendance to the hearing.

### **Analysis**

Based on the documentary evidence and testimony of the parties, I am unable to determine with certainty how, when and to whom the notice to end tenancy was served. And, as I have already noted, the applicant in this dispute was not properly named in the landlord's notice. Further, the landlord's agent did not make an oral request for an order of possession during the hearing. For all of the aforementioned reasons, I hereby cancel the landlord's notice to end tenancy with the result that the tenancy continues in full force and effect.

As the tenant has succeeded in this application, I find that he is entitled to recovery of the \$50.00 filing fee. I order that this amount may be withheld from the next regular payment of monthly rent.

The landlord has the option of issuing and serving a fully completed 10 day notice to end tenancy for unpaid rent, and seeking an order of possession by way of application for dispute resolution.

Information and assistance is available to the public in the Lower Mainland region as follows:

Hours: 8:30 a.m. – 4:30 p.m., Monday through Friday

400 – 5021 Kingsway Avenue, Vancouver, BC V5H 4A5

Telephone: 604-660-1020

### **Conclusion**

I hereby cancel the landlord's 10 day notice to end tenancy for unpaid rent. The tenancy continues in full force and effect.

The tenant may withhold \$50.00 from the next regular payment of monthly rent in consideration of recovering the filing fee for this application.

DATE: July 29, 2009

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Dispute Resolution Officer