

## **DECISION**

Dispute Codes      CNR, MNDC, RR

### Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for Unpaid Rent dated March 3, 2010. The Tenant also applied for compensation for damage or loss under the Act or tenancy agreement and for an order allowing her to reduce rent for repairs agreed to but not provided.

RTB Rule of Procedure 2.3 states that "if in the course of the dispute resolution proceeding, the Dispute Resolution Officer determines that it is appropriate to do so, the Dispute Resolution Officer may dismiss unrelated disputes contained in a single application with or without leave to reapply." I find that the Tenant's claims for compensation and for a rent reduction are unrelated to her application to cancel a Notice for Unpaid rent and they are dismissed on the terms set out in the Conclusion.

### Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?

### Background and Evidence

This month to month tenancy started on February 1, 2009. Rent is \$575.00 per month payable in advance on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$287.50.

The Landlord claims that the Tenant has rent arrears for December 2009 of \$249.00 and did not pay rent for January, February, March and April 2010 for a total of \$2,549.00 in unpaid rent. The Tenant admitted that she has not paid rent for April 2010 and denied that she has any other rent arrears. The Tenant claimed that she had a verbal agreement with the property manager that she could pay rent at the end of the month (on welfare day) for the preceding month.

The Tenant argued that she always paid rent in cash but that the Landlord never gave her a receipt. The Landlord's property manager said he always gave receipts for payments made in cash but provided no evidence of any receipts having previously been given to the Tenant.

The Landlord argued that the Tenant admitted on a previous application for dispute resolution that she had rent arrears for December 2009 and January 2010 in the amount of \$824.00 (as set out on a previous 10 Day Notice) but claimed that she believed the Landlord agreed to waive those arrears. The Landlord also argued that at the hearing of this matter, the Tenant gave contradictory evidence and claimed that she pre-paid January 2010 rent in December 2009.

Part way through the hearing, the Parties agreed to settle this dispute on the following terms:

1. The Landlord will receive an Order of Possession to take effect on May 1, 2010 at 1:00 p.m.;
2. The Landlord will be entitled to recover unpaid rent for April 2010 by way of retaining the Tenant's security deposit of \$287.50 and by receiving a monetary order for the balance of \$287.50; and
3. This agreement does not affect the Landlord's right to make an application for alleged unpaid rent for December 2009 and for January – March, 2010.

### Analysis

Section 63 of the Act says that "if the parties settle their dispute during the dispute resolution proceedings, the director may record the settlement in the form of a decision or order." Consequently, I find that the Landlord is entitled to an Order of Possession and a Monetary Order on the above-noted terms.

### Conclusion

The Tenant's application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent dated March 3, 2010 and for a rent reduction are dismissed without leave to reapply. The Tenant's application for compensation is dismissed with leave to reapply.

An Order of Possession to take effect on May 1, 2010 and a Monetary Order in the amount of \$287.50 have been issued to the Landlord. A copy of the Orders must be served on the Tenant; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia. 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: April 21, 2010.

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Dispute Resolution Officer