



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      CNR, MNDC, OLC, RP, OPT

### Introduction

This was an application by the tenant seeking an order cancelling a Notice to End Tenancy for unpaid rent, a monetary order, a repair order and other relief. The hearing was conducted by conference call. The tenant and the landlord's representative participated in the hearing.

### Issue(s) to be Decided

Should the 10 day Notice to End Tenancy for unpaid rent be cancelled?

Is the tenant entitled to other remedies, including a monetary order?

### Background and Evidence

The rental property is an apartment building in Vancouver. The landlord described it as a supportive housing facility. Rent for all the units in the building is \$375.00 per month.

In September, 2010 the landlord agreed to rent a unit to the tenant even though he did not have the money to pay the first month's rent or a security deposit. The tenant moved into the rental property on September 9, 2010. He paid the landlord \$400.00 in October, but he has made no other payments to the landlord.

The tenant said that he has withheld rent because the landlord has not dealt with the problems with the building. The tenant's chief complaint is noise created by other occupants in the building. The landlord moved the tenant to a quieter unit but the tenant said that his sleep has been disturbed and this has prevented him from working. The tenant said that he has refused to pay rent because all of his problems have not been

addressed. The landlord testified that the tenant now owes more than \$1,100.00 in unpaid rent.

## Analysis and conclusion

The tenant acknowledged receiving the 10 day Notice to End Tenancy on November 30, 2010. He applied to dispute the Notice on December 3, 2010. The *Residential Tenancy Act* does not permit a tenant to withhold rent without first obtaining an order authorizing him to do so except in limited and exceptional circumstances having to do with emergency repairs paid for by the tenant.

The tenant was not entitled to withhold rent. He has not provided any evidence that would provide a ground to cancel the Notice to end Tenancy. The tenant claimed a monetary order in the amount of \$400.00. It appears from his written submission that the tenant claims to have lost wages due to sleeplessness for which he blames the landlord. The tenant has not proven either the actual wage loss, or the landlord's responsibility for it on a balance of probabilities and I deny this claim. The tenant did not submit evidence to show that any repairs are required; this claim is denied. The tenant's application is dismissed without leave to reapply. At the hearing the landlord requested that I grant the landlord an order for possession effective December 31, 2010. Section 55 provides that I must grant the landlord an order for possession upon request when the tenant's application has been dismissed. I grant the landlord an order for possession effective December 31, 2010 after service on the tenant. This order may be registered in the Supreme Court and enforced as an order of that court.

Dated: December 23, 2010.

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