



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      CNR, MNDC, RR

### **Introduction**

This hearing was convened by way of conference call to deal with the tenant's application for an order cancelling a notice to end tenancy for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and for an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided.

An agent for the landlord company and the tenant attended the conference call hearing, each gave affirmed testimony, and were given the opportunity to cross examine each other on their evidence. The landlord provided evidence that was not received by the Residential Tenancy Branch or by the tenant within the time set out in the *Residential Tenancy Act* and Rules of Procedure, however, with the tenant's consent, that evidence is considered in this Decision. All evidence and testimony provided has been reviewed and is considered in this Decision.

The hearing commenced on May 25, 2011 but did not conclude, and was adjourned for a continuation of evidence, testimony and submissions of the parties on May 30, 2011.

During the course of the hearing, the parties agreed that the notice to end the tenancy given by the landlord to the tenant is cancelled, and therefore, the tenant's application for an order cancelling the notice to end tenancy is hereby allowed.

### **Issue(s) to be Decided**

Is the tenant entitled to an order cancelling a notice to end tenancy for unpaid rent or utilities?

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the tenant entitled to an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided?

### **Background and Evidence**

This month-to-month tenancy began in January, 2004, and a month later, the tenant moved onto a new site within the manufactured home park. The tenant still resides in the manufactured home on that site. Rent in the amount of \$100.00 per month is payable every quarter, on the 1<sup>st</sup> day of January, April, July and October each year, and there are currently no rental arrears. The tenant's manufactured home is situated on 2 sites, numbers 4 and 5, and the tenant pays the water bill.

The tenant testified that a rent increase was imposed last year, and the tenant asks for the landlord to pay the monthly water bill. He is a plumber, and also testified that the pipes have eroded and he's repaired them a number of times.

The tenant further testified that water costs \$62.50 per quarter and he has paid the water bills since 2006 starting in about January or February. He stated that he didn't have any water on the first site that he rented, and never moved onto it. He had it levelled, and paid double rent, for both sites, until 2010. Copies of 2 tenancy agreements were provided in advance of the hearing, one dated January 4, 2004 and one dated January 13, 2005 and both state that water is included in the rent. The tenant also provided a print-out of the Regional District's garbage and water records which sets out the amounts and dates due.

The landlord's agent testified that the Regional District mandated that every home had to be connected with a meter and the tenants then became responsible for the water bills. When questioned about the tenancy agreement, the landlord's agent was not able to provide any evidence with respect to any changes.

### **Analysis**

Since the parties agree that the notice to end the tenancy given by the landlord to the tenant is cancelled, I find it prudent to make that order.

I have reviewed the evidence, and I find that the tenant has established a claim against the landlord for water he paid that the landlord was responsible for paying. I have reviewed the Regional District's print-out, and find that between October, 2007 and December 2010, the tenant paid \$1,429.00 for water and garbage. That document specifies what charges are for garbage, for which the tenant is not entitled to reimbursement, and for water, for which I find the tenant is entitled to reimbursement in the amount of \$812.00. Another invoice shows that water was billed to the tenant for the months of April, May and June, 2011 in the amount of \$62.50. The tenant testified that he's paid the water bills starting in 2006, but was not able to provide proof of the

amounts, and I note that the water rates changed from time-to-time and therefore, I find that the tenant has failed to establish the amounts paid prior to October, 2007. I do find, however, that the rate of \$62.50 per quarter has been consistently charged by the Regional District starting in April, 2010 and continuing until June, 2011. Therefore, I find that the tenant has established that amount per quarter, and the amount of \$62.50 for 2 quarters, being January to March, 2011 and April to June, 2011 has been established in addition to the \$812.00 contained on the print-out, for a total of \$937.00.

### **Conclusion**

For the reasons set out above, the tenant's application for an order cancelling the notice to end tenancy is hereby allowed, and I order that it be cancelled.

I further order that the tenant be permitted to deduct the amount of \$937.00 from rent payable until the sum has been realized.

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: June 20, 2011.

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Residential Tenancy Branch