



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPC, CNC, ERP, RP, RR, MNR, FF*

### **Introduction.**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied to cancel the notice to end tenancy and for an order directing the landlord to carry out repairs and reduce rent. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order for unpaid rent and the filing fee? Is the tenant entitled to an order directing the landlord to carry out repairs and reduce rent?

### **Background and Evidence**

The landlord and tenant entered into a tenancy agreement on June 01, 2011. The rent is \$850.00 per month due on the first of each month and does not include utilities. A large portion of the rent is paid by Social Services and the tenant covers the difference.

On September 25, 2011 the landlord served the tenant with a one month notice to end tenancy for cause, with an effective date of October 25, 2011. The notice was served for the following reasons:

1. Tenant is repeatedly late paying rent.
2. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord
3. Tenant has engaged in illegal activity that has or is likely adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

The landlord testified that the portion of the rent received directly from Social Services was always received prior to the first of the month. However the tenant's portion was repeatedly late. During the hearing, the tenant agreed that she had paid her share of rent late a few times and provided the dates of payment. The tenant stated that she paid rent on July 07, September 06 and October 20.

### **Analysis**

In order to support the notice to end tenancy, the landlord must prove that one or more of the reasons for the notice to end tenancy applies. Based on the testimony of both parties, I find that the tenant was repeatedly late paying rent.

Pursuant to section 38 of the *Residential Tenancy Policy Guideline*, three late payments are the minimum number sufficient to justify a notice under these provisions. During the tenancy of five months, the tenant was late paying rent on at least three occasions. Therefore, I find that the landlord has proven one of the reasons to end the tenancy for cause and accordingly, I uphold the notice to end tenancy.

I find that the landlord is entitled to an order of possession. The landlord agreed to allow the tenancy to continue up to November 15. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Since the tenancy will end on November 15, the tenant must pay rent up to and including the last day of the tenancy. Accordingly, the landlord is entitled to rent in the amount of \$425.00. The landlord has proven her case and is therefore also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$475.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Since the tenancy is coming to an end, the remainder of the tenant's application is no longer relevant and accordingly dismissed.

### **Conclusion**

The notice to end tenancy is upheld and I grant the landlord an order of possession effective on or before 1:00 p.m. on November 15, 2011. I also grant the landlord a monetary order for \$475.00.

The tenant's application is dismissed in its entirety.

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: November 01, 2011.

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Residential Tenancy Branch