

## **Interim Decision**

**Dispute Codes:** CNR, MNDC, LRE, RR

### **Introduction / Background / Evidence**

This hearing was convened in response to an application by the tenants for cancellation of a notice to end tenancy / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / an order suspending or setting conditions on the landlord's right to enter the rental unit / and authority to reduce rent for repairs, services or facilities agreed upon but not provided. Both parties participated in the hearing and gave affirmed testimony.

At the outset of the hearing the landlord requested an adjournment. This request arose out of the landlord's claim that the tenants' hearing package was not served at least five (5) business days before the date of the hearing. The tenants responded by claiming that three (3) separate mailing addresses are known to them for the landlords. As to service of documents, Residential Tenancy Policy Guideline # 3.6 provides in part:

An applicant who intends to present and rely upon other physical evidence at the dispute resolution proceeding must provide a description of the evidence to the Residential Tenancy Branch and serve the respondents at least five (5) business days before the dispute resolution proceeding.

The landlord's request for adjournment was granted. It was agreed between the parties during the hearing that in future the landlord's address for service will be the address shown in the tenants' application, which is the current residential address for the landlord in Alberta. In the meantime, certain information gathered from the parties is set out below.

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the fixed term of tenancy is from May 1, 2011 to May 1, 2012. Monthly rent of \$1,250.00 is payable in advance on the first day of each month, and a security deposit of \$500.00 was collected. There is no evidence of a move-in condition inspection report.

By e-mail dated October 1, 2011, the tenants gave the landlord 60 days notice of their intent to vacate the unit effective December 1, 2011. Later, the tenants filed an application for dispute resolution on October 27, 2011. Subsequently, arising from rent which was unpaid when due on November 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated November 7, 2011. The notice was served in person on the tenants on that same date. A copy of the notice was submitted into

evidence. Thereafter, the tenants filed an amended application on November 9, 2011, which includes application to have the notice set aside. The tenants made no further payment toward rent and they effectively vacated the unit on November 18, 2011. Accordingly, the tenants withdrew the aspect of their application to have the notice to end tenancy set aside. There is no evidence of a move-out condition inspection report.

While the parties exchanged views on some of the circumstances surrounding the dispute, their preliminary efforts to resolve the dispute were unsuccessful.

### **Conclusion**

I hereby order that this hearing be adjourned and re-scheduled for a date to be set in January 2012. The notice of hearing will be sent to the parties under separate cover.

The landlord has the option of filing her own application for dispute resolution, and requesting that it be joined with the tenants' application to be heard as a cross application at the same hearing in January 2012.

In the meantime, the parties are informed that the full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

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*.

DATE: November 21, 2011

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Residential Tenancy Branch