



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNR; O

### **Introduction**

This Hearing was scheduled to hear the Tenant's application to cancel a *10 Day Notice to End Tenancy for Unpaid Rent* (the "Notice").

Both parties provided affirmed testimony at the Hearing.

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

Should the Notice issued January 2, 2012, be cancelled?

### **Background and Evidence**

This tenancy began in August of 2011. Monthly rent is \$250.00, due the first day of each month. In addition, the Tenant is responsible for paying 50% of electricity bills and 100% of the gas bills.

The Landlord testified that the Tenant did not pay rent on January 1, 2012, so he issued the Notice on January 2, 2012, and served the Tenant with the Notice by handing it to him, at the rental unit, on January 2, 2012.

The Landlord testified that the Tenant has not paid any of the rent owed for January, 2012.

The Tenant testified that he did not pay any of the rent for January because the Landlord owes him \$2,000.00 for work that he has done for the Landlord pursuant to an agreement. The Tenant testified that he has no previous Order from a Dispute Resolution Officer allowing him to withhold any rent, or any other reason under the Act to withhold or deduct rent. He stated that he didn't think it was fair that he had to pay rent if the Landlord owed him money for work he had done. The Tenant stated that he has the rent and can pay the Landlord now.

The Landlord asked for an Order of Possession.

## **Analysis**

The Residential Tenancy Act does not have authority to consider monetary claims arising from contracts of employment. If the Tenant believes that he is owed money for work performed, he must make his application before a court of competent jurisdiction.

Section 26 of the Act requires a tenant to pay rent when it is due, whether or not the landlord complies with the Act, regulation or tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent. Based on the Tenant's testimony, I am satisfied that the Tenant did not have a right under the Act to deduct any rent. I find that it is a valid Notice and therefore I dismiss the Tenant's application to cancel the Notice.

Section 55(1) of the Act states:

### **Order of possession for the landlord**

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

I am satisfied that the Tenant was personally served with the Notice on January 2, 2012. I find that the effective date of the end of the tenancy was January 12, 2012. Further to the provisions of Section 55(1) of the Act, I hereby provide the Landlord with an Order of Possession **effective 2 days after service of the Order upon the Tenant.**

## **Conclusion**

The Tenant's application is dismissed without leave to re-apply.

I hereby provide the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant.** This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: January 26, 2012.

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Residential Tenancy Branch