



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OPC, OPB, MNR, MNDC, FF

### Introduction

This matter proceeded by way of a conference call hearing, pursuant to the *Residential Tenancy Act* (the “Act”), and dealt with cross Applications for Dispute Resolution by the Landlord and Tenant. The Landlord’s Application requested an order of possession for cause and breach of the tenancy agreement, a monetary order for unpaid rent, compensation for damage or loss, and recovery of the filing fee. The Tenant’s Application requested to have a Notice to End Tenancy for unpaid rent to be cancelled.

Both parties appeared, gave affirmed testimony and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

The Tenant’s advocate, his father JN, attended the hearing with the Tenant and provided affirmed testimony that he handled the Tenant’s legal and financial matters due to the Tenant’s disability. JN stated that he does not reside with the Tenant, and confirmed that only the Tenant is named on the tenancy agreement and the Tenant was signatory to that agreement.

During the course of the hearing, the Landlord and the Tenant assisted by his advocate reached an agreement to settle the One Month Notice to End Tenancy and Ten Day Notice to End Tenancy raised in the parties Applications. The details of the settlement agreement are noted below, in the conclusion of this decision.

The remaining issues in the Landlord’s application of unpaid rent/rental income loss for the month of March 2012, and filing fee for the cost of this application were decided as set out in this decision.

### Issue(s) to be Decided

Should the Tenant be ordered to the unpaid rent/rental income loss for the month of March 2012 and the filing fee?

### Background and Evidence

The tenancy began November 01, 2011 and the parties have a written tenancy agreement. The Landlord provided a copy of the tenancy agreement into evidence. The parties agree that the rent is \$600.00 per month and it is due on the first of the month. The Tenant still resided in the rental unit at the time of the hearing.

The Tenant stated that rent had not been paid for the month of March 2012 as the Landlord had declined to accept the rent payment and told the Tenant he was supposed to have moved out by February 29, 2012 in accordance with the One Month Notice to End Tenancy. The Tenant confirmed that the rent for March 2012 has not been paid and that he has resided in the rental unit during the month of March 2012. JN, the Tenant's advocate, confirmed the Tenant's testimony.

The Landlord stated that the Tenant had the Ministry of Social Development sending cheques to the Landlord directly during the tenancy. The Landlord stated that he could not accept the cheque for March as it was coming direct from the Ministry and not from the Tenant and the Tenant was only in the rental unit for use and occupancy only. The Landlord stated that the tenancy was to end on February 29, 2012 in accordance with the One Month Notice issued to the Tenant on January 23, 2012. The Landlord stated that he has rental income loss for March 2012 as the Tenant has remained in the rental unit and had not agreed to pay rent for use and occupancy only. The Landlord stated that if the Tenant had moved out in accordance with the One Month Notice that he would not have had to file for dispute resolution and seek an order of possession and the rental income loss for March 2012. The Landlord requests \$600.00 for rental income loss for March 2012 and the \$50.00 filing fee for the cost of the Application.

### Analysis

The Tenant does not dispute that the Landlord is owed rent or rental income loss for March 2012 and that he has resided in the rental unit and has not vacated the rental unit at the time of this hearing, March 29, 2012.

I find the Landlord is entitled to \$600.00 to compensate the Landlord for unpaid rent/rental income loss for March 2012 as the Tenant resided in the rental unit during the month of March 2012.

As the Landlord has succeeded in their Application, I find that the Landlord is entitled to recover the \$50.00 fee for this proceeding.

I find that the Landlord is entitled to a monetary order for \$650.00 representing the rental income loss for March 2012 and the filing fee.

### Conclusion

During the course of the hearing, the Landlord and the Tenant assisted by his advocate reached an agreement to settle the One Month Notice to End Tenancy and Ten Day Notice to End Tenancy raised in the parties Applications. Pursuant to section 63 of the Act, I record the agreement as follows:

1. The tenancy will end at 1:00 P.M. March 31, 2012. The Tenant agrees to vacate the rental unit, no later than 1:00 P.M. on March 31, 2012 and return the keys to the Landlord.
2. The Landlord is entitled to an order of possession on the rental unit, effective 1:00 P.M. on March 31, 2012.
3. The parties agree that the Tenant's personal belongings and furnishings may remain in the rental unit until 1:00 P.M. on April 06, 2012, and that the Landlord will grant access to the Tenant's parents JN and CS to remove the personal belongings and furnishings until 1:00 P.M. on April 06, 2012.

I grant the Landlord an order of possession, effective **1:00 P.M. March 31, 2012**. If the Landlord serves the order of possession on the Tenant and the Tenant fails 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. The order accompanies the Landlord's copy of this decision.

I find that the Landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$650.00** comprised of rental income loss for March 2012 and the filing fee. Should the Tenant fail to pay this amount to the Landlord immediately, the Landlord may enforce the order through the Provincial Court.

This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) 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: March 29, 2012.

---

Residential Tenancy Branch