



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNR, MNDC, RR, FF

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy for unpaid rent / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / permission to reduce rent for repairs, services or facilities agreed upon but not provided / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

A previous decision was issued by date of August 17, 2011 in a dispute between these same parties (file # 776955). In part, the decision reads as follows:

Given the loss of parking caused by the action of the Landlord, I find that the Tenant is entitled to a monetary award of \$80.00 for this loss for the months of July and August 2011.

Should the landlord continue to restrict the Tenant from parking in the back lot, I find that the Tenant is entitled to the amount of \$40.00 for each month of the continuing tenancy and the Tenant may deduct this amount from future monthly rent payable to the Landlord.

Following from the above, the tenant continued to withhold \$40.00 from the monthly rent for each of the 7 months of September, October, November & December 2011; and January, February & March 2012.

However, the landlord takes the position that the tenant was informed in February 2012 that parking was again available to him. Accordingly, the landlord disputes the tenant's

withholding of \$40.00 from the payment of rent for March 2012. As a result of that withholding the landlord issued a 10 day notice to end tenancy for unpaid rent dated March 2, 2012. Thereafter, the tenant filed an application to dispute the notice on March 6, 2012.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

### Analysis

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)

Section 63 of the Act, which addresses the **Opportunity to settle dispute**, provides that the parties may attempt to resolve their dispute during a hearing. Pursuant to this provision, discussion between the parties led to a resolution. Specifically, it was agreed as follows:

### RECORD OF SETTLEMENT

- that the landlord agrees the 10 day notice to end tenancy for unpaid rent dated March 2, 2012 is hereby set aside, such that the tenancy continues in full force and effect;
- that the tenant will retain the \$40.00 already withheld from payment of rent for March 2012;
- that the tenant has immediate access to parking pursuant to the terms and conditions set out in the landlord's letter to the tenant by date of February 26, 2012;
- that as a direct result of now having access to parking, the tenant will pay the full amount of rent due (without any longer withholding \$40.00) effective April 1, 2012;
- that the tenant withdraws all aspects of his application concerning compensation, including recovery of the filing fee;

- that the above particulars comprise full and final settlement of all aspects of the dispute for both parties, which arise out of this tenancy and which are presently before me.

### Conclusion

The notice to end tenancy is hereby set aside, with the effect that the tenancy continues uninterrupted.

All other terms agreed to by the parties pursuant to section 63 of the Act are set out above.

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 21, 2012.

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Residential Tenancy Branch