



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

CNR; MNR; MNDC; ERP; RP; AAT; RR; FF

### Introduction

This Hearing was scheduled to hear the Tenant's application to cancel a *10 Day Notice to End Tenancy for Cause* (the "Notice") June 20, 2012; for a Monetary Order for the cost of emergency repairs and compensation for damage or loss under the Act, regulation or tenancy agreement; for Orders that the Landlord make regular and emergency repairs to the rental unit; of an Order that the Tenant be allowed access to or from the rental unit; for an Order allowing the Tenant a rent reduction; and to recover the cost of the filing fee from the Landlord.

Both parties gave affirmed testimony at the Hearing.

It was determined that the Landlord received the Notice of Hearing documents on June 25, 2012, and that both parties exchanged their documentary evidence.

### Preliminary Matter

The Residential Tenancy Rules of Procedure, Rule 2.3, states that for disputes to be combined on an application they must be related. I find that that the monetary claims and requests for Orders are not sufficiently related to the main issue, which is to cancel the Notice. For these reasons, **I dismiss the Tenant's application for a Monetary Order and other Orders with leave to reapply.**

### Background and Evidence

Both parties gave testimony which was not relevant to the Tenant's application to cancel the Notice to End Tenancy. I have provided only the relevant portions of the parties' testimony in this Decision.

There is no written tenancy agreement between the parties. Monthly rent is \$850.00.

### The Landlords gave the following testimony:

- This tenancy began on October 1, 2005.
- The Tenant is in arrears of rent since January 2, 2012 and currently owes \$3,850.00.

- Rent is due on the first day of each month.
- The Landlord served the Tenant with the Notice to End Tenancy on June 20, 2012.
- The Landlords requested an Order of Possession effective August 1, 2012.

The Tenant gave the following testimony:

- He moved into the rental unit on November 3, 2004.
- The Landlord was the previous tenant.
- Rent is not due on any particular day of the month. The Tenant was allowed to pay rent whenever he could. He had a hand-shake deal with the Landlord regarding maintenance of the property that he could “work off his rent”.
- The Tenant pays rent in cash, but the Landlord does not provide receipts. He currently owes only \$100.00 in rent, not \$3,850.00.
- The Tenant acknowledged receiving the Notice to End Tenancy on June 20, 2012.

**Analysis**

Section 26 of the Act provides that rent must be paid when it is due, whether or not the landlord complies with the Act, regulation or tenancy agreement unless a tenant has a right under the Act to deduct all or a portion of the rent.

Based on the testimony of both parties, I find that the Tenant is in arrears of rent and that he does not have a right under the Act to deduct any amount from the rent. The Tenant’s application to cancel the Notice to End Tenancy is dismissed.

I find that the tenancy ended on June 30, 2012, ten days after the Tenant received the Notice to End Tenancy.

Section 55(1) of the Act states:

**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.

The Landlord requested an Order of Possession effective August 1, 2012, and therefore I hereby provide the Landlord an Order of Possession effective that date.

The Landlord asked for a Monetary Order for unpaid rent. I explained to the parties that this was the Tenant's application. The Landlord is at liberty to file his own application for dispute resolution for unpaid rent. I make no findings with respect to the **amount** of rent owed.

### **Conclusion**

The Tenants' application to cancel the Notice to End Tenancy issued June 20, 2012, is dismissed **without leave to re-apply**.

Pursuant to the provisions of Section 55 of the Act, I hereby provide the Landlord an Order of Possession **effective 1:00 p.m., August 1, 2012**. This Order must be served on the Tenant and 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: July 16, 2012.

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Residential Tenancy Branch