



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNR, MNDC

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a 10 day notice to end tenancy for unpaid rent / and a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement. Both parties attended the face-to-face 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

There is no written tenancy agreement in evidence for this tenancy which began in December 2002. Monthly rent is due and payable in advance on the first day of each month. Rent was increased effective January 1, 2012, such that rent due and payable for each month of 2012 was \$396.07.

Rent paid by the tenant for January 2013 was also \$396.07. In exchange for that particular payment, the landlord issued a receipt bearing the manual notation "Jan. rent paid in full." However, despite this, on January 2, 2013 the tenant found a 10 day notice to end tenancy for unpaid rent dated January 2, 2013 posted on his door. The tenant filed an application to dispute the notice on January 7, 2013.

A copy of the notice was submitted in evidence. The notice documents that \$15.05 was not paid when due on January 1, 2013. This amount reflects a 3.8% increase in rent (\$396.07 x 3.8%) which is the allowable amount of a rent increase which takes effect in 2013.

The tenant's evidence does not include a copy of a "notice of rent increase" (#RTB-7). During the hearing the landlord introduced a copy of such a document with respect to this particular tenancy, however, the tenant testified that he had not previously seen it.

A manual notation made at the bottom of the “notice of rent increase” indicates that it was posted on the tenant’s door on October 30, 2012. Further, the “notice of rent increase” provides that the rent increase will be effective February 1, 2013.

Subsequent to the tenant’s having filed his application for dispute resolution, by letter dated January 16, 2013, the landlord offered an apology for “incorrectly issuing you a 10 day eviction notice on January 2, 2013.” A copy of this letter was provided by the landlord during the hearing. The letter went on to say, in part, as follows:

Our records show your rent is not due to increase until February 1, 2013. We will inform RTB of our clerical error and regard this matter closed.

As to compensation, in his application the tenant seeks a monetary order for costs incurred for “copying, faxing, postage and Registered post” in the estimated amount of \$100.00. Receipts submitted by the tenant at the hearing, with copies provided to the landlord, show actual compensation sought in the amount of \$48.36.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guideline, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 90 of the Act addresses **When documents are considered to have been served**. Even if it were determined that the “notice of rent increase” was not served until November 2, 2012, which is 3 days after the date claimed by the landlord as the date of posting on October 30, 2012, and that the effective date of the notice is therefore March 1, 2013 as opposed to February 1, 2013, the tenant testified that he did not receive the notice. In any event, whether or not the notice was served and, if it was served, when it would be effective, are not issues that are directly before me. Further, there was an absence of mutual interest in resolving these broader issues and attempting to come to a resolution during this hearing. In short, the narrow issue before me is whether the tenant has established entitlement to cancellation of the 10 day notice to end tenancy for unpaid rent.

Based on the documentary evidence and affirmed testimony of the parties, I find that the tenant paid rent in full of \$396.07 for January 2013 in accordance with the legislation, and the landlord acknowledges this. Accordingly, the 10 day notice is hereby set aside, with the effect that the tenancy continues in full force and effect.

Evidence in support of the tenant's application for compensation includes, but is not necessarily limited to, receipts for costs arising from a corporate search, registered mailings, and photocopies. In this regard, section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the tenant's claim for a monetary order as compensation for these miscellaneous costs is hereby dismissed.

### Conclusion

The landlord's 10 day notice to end tenancy for unpaid rent is hereby set aside.

The tenancy continues in full force and effect.

The tenant's application for compensation is hereby dismissed.

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 31, 2013

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Residential Tenancy Branch

