



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OLC, RP, LRE, RR

### Introduction

This matter dealt with an application by the Tenants to cancel a Notice to End Tenancy for unpaid rent, to have the Landlord comply with the Act, regulations or tenancy agreement, for repairs to the unit, to set conditions on the Landlord's right of entry and for a rent reduction.

The Tenants said they served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on May 13, 2013. Based on the evidence of the Tenants, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Are the Tenants entitled to an Order to cancel the Notice to End Tenancy?
2. Has the Landlord complied with the Act, regulations and tenancy agreement?
3. Are there repairs to be made to the unit?
4. Are the Tenants entitled to set condition on the Landlord's right of entry to the rental unit?
5. Are the Tenants entitled to a rent reduction?

### Background and Evidence

This tenancy started on February 1, 2012 as a month to month tenancy. Rent is \$800.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$300.00 in advance of the tenancy.

The Landlord said he served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated May 7, 2013. The Landlord said he served the Notice on May 11, 2013 by posting it on the door of the Tenants' rental unit. The Tenants said the Landlord enter their rental unit without proper notice and served the 10 Day Notice to End the Tenancy for Unpaid Rent in person. The Effective Vacancy date on the

Notice was May 17, 2012. The Tenants are living in the unit and the Landlord requested an Order of Possession if the Tenants' application is unsuccessful.

The Landlord continued to say that the Tenants have unpaid rent of \$800.00 for May, 2013 and unpaid rent of \$800.00 for June 2013. The Tenants said they have not paid the rent for May and June, 2013 because the Landlord has not made repairs to the unit and the Landlord is entering the unit without proper notice. The Tenant said there is \$1,600.00 in unpaid rent.

As the Tenants application is first to cancel the notice for unpaid rent and the Tenants agree there is unpaid rent it is apparent that the Tenants application will not be successful. The other items that the Tenants have applied for are contingent on the tenancy continuing.

### Analysis

**Section 26(1)** says a tenant must pay rent when it is due under the tenancy agreement, **whether or not the landlord complies with this Act, the regulations or the tenancy agreement**, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant does not have the right to withhold all or a portion of the rent from the Landlord when it is due therefore; I find the Tenant has not established grounds to be granted an order to cancel the Notice to End Tenancy. The Landlord's 10 Day Notice to End Tenancy dated May 7, 2013 stands in effect and consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect two days after service of the Order on the Tenants.

The Tenants application for the Landlord to comply with the Act, for repairs to the unit, to set conditions on the Landlord's right of entry to the unit, and for a rent reduction are all dismissed without leave to reapply as the tenancy is ending.

Conclusion

The Tenants' application is dismissed without leave to reapply.

An Order of Possession effective two days after service of the Order on the Tenants has been issued to the Landlord. A copy of the Order must be served on the Tenants in accordance with the Act: the Order of Possession and may be enforced in the Supreme Court of British Columbia.

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: June 10, 2013

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Residential Tenancy Branch

