



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, ERP, RP, RR

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order to the landlord to make repairs and emergency repairs to the rental unit pursuant to section 33; and
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlord confirmed that he had received notice of this hearing from the tenants.

At the commencement of this hearing, the tenants testified that almost all of their belongings have been packed into a moving truck and they were poised to end their tenancy shortly. Although the male tenant said that the tenants planned to sleep elsewhere on the night of this hearing, he said that they still needed a little more time to clean the rental premises at the end of their tenancy. As the tenants were in the process of moving, they did not pursue their application to cancel the landlord's 10 Day Notice. The male tenant agreed to end this tenancy by August 17, 2013.

As this tenancy is ending, the tenants withdrew their applications for repairs and emergency repairs. These portions of the tenants' application are withdrawn.

Although the landlord had included information in his written evidence in which he asked for a monetary award for unpaid rent owing from this tenancy, he testified that he had not filed an application for dispute resolution with the Residential Tenancy Branch (the RTB) to seek such an award. As no such application from the landlord is before the RTB at this time, I advised the parties that I could not consider the landlord's request for a monetary award. The landlord did request an end to this tenancy and an Order of

Possession should the tenants not vacate the premises in accordance with their stated objective to vacate the rental unit by August 17, 2013, at the latest.

Since the landlord expressed an interest in pursuing a monetary claim for unpaid rent owing from this tenancy, I sever the tenants' claim for a retroactive reduction in rent for services and facilities promised but not provided by the landlord during this tenancy from the remainder of this application. I dismiss this element of the tenants' claim with leave to reapply. Following the tenants' cleaning of the rental unit, there may arise issues regarding the entitlement to the tenants' security deposit. Based on the sworn testimony of the parties and their written evidence, it appears likely that both parties may be making monetary claims against one another in the future. I find that these monetary claims would be best considered at one time by the Arbitrator assigned to look at applications for monetary awards claimed by both parties. Both parties will need to file new applications for dispute resolution to seek any monetary awards to which they believe they are entitled arising out of this tenancy. As noted at the hearing, both parties will also need to re-submit any evidence they wish considered, as the existing copies of documents provided will not form part of any new application they initiate.

#### Conclusion

To give certainty to the end of this tenancy, I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia. As noted, this tenancy may also end on the basis of the tenants' surrender of vacant possession of the rental unit to the landlord prior to the landlord's receipt of the attached 2-day order.

The tenants' applications for repairs and emergency repairs are withdrawn. I dismiss the tenants' application for a retroactive reduction in rent from this application and allow them leave to reapply for a monetary award for a reduction in rent or for any other matters arising out of this tenancy.

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: August 16, 2013

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Residential Tenancy Branch

