



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OPR, MNR, MDSD & FF

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was personally served on the Tenant on January 4, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord was served in person on the Tenant on February 11, 2014. I determined that the Application for Dispute Resolution filed by the Tenant was personally served on the Landlord on January 9, 2013. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the Tenant is entitled to an order cancelling the Notice to End Tenancy dated January 4, 2014?
- b. Whether the landlord is entitled to an Order for Possession?
- c. Whether the landlord is entitled to A Monetary Order and if so how much?
- d. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- e. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on September 1, 2013. The rent is \$700 per month payable in advance on the first day of each month. The tenant(s) failed to pay the rent for the months of November, December, January and February. The landlord served a 10 day Notice to End Tenancy on the tenant on January 4, 2014. The tenant paid the sum of \$1400 on February 14, 2014. As a result I determined the tenant owes the sum of \$1400 for the months of January and February 2014. The tenant continues to reside in the rental unit.

Tenant's Application to Cancel 10 day Notice to End Tenancy:

I dismissed the tenant's application for an order to cancel the 10 day Notice to End Tenancy as there is no basis to cancel the Notice. The tenant acknowledged the amounts claimed are owed. He asked for an extension of time to pay. The landlord refused. I advised the hearing that an arbitrator no longer has the authority under the Residential Tenancy Act to grant an extension to pay the rent.

Landlord's Application - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant's application for an order to set aside the Notice to End Tenancy has been dismissed. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. **Accordingly, I granted the landlord an Order for Possession on 2 days notice.**

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of January and February 2014 and the sum of \$1400 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$1400 plus the sum of \$50 in respect of the filing fee for a total of \$1450.

Security Deposit

**I determined the security deposit plus interest totals the sum of \$350. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1100**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court 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: February 25, 2014

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Residential Tenancy Branch

