



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Burnaby Lougheed Lions Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, OPR, MNR, FF

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenant applied on January 13, 2014 for:

1. An Order cancelling a Notice to End Tenancy – Section 46.

The Landlord applied on January 22, 2014 for:

1. An Order of Possession - Section 55;
2. An Order for unpaid rent or utilities - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matter

At the onset of the hearing, the Parties confirmed that the Landlord had provided an evidence package to the Tenant containing a copy of a 10 day notice to end tenancy for unpaid rent (the “Notice”), the tenancy agreement and evidence of rental arrears to January 2014. The Landlord states that this package was also provided to the Residential Tenancy Branch at the time of making the application.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The following is agreed by the Parties: The tenancy began on September 15, 2011. Subsidized rent of \$557.00.00 was payable in advance on the first day of each month until and including January 2014. At the outset of the tenancy, the Landlord collected \$513.00 as a security deposit from the Tenant based on the market rent for the unit. The Tenant failed to pay rent for January 2014 and on January 7, 2014 the Landlord personally served the Tenant with the Notice setting out the amount of \$554.00 owing for January 2014 rent. This amount reflected a previous credit of \$3.00. Although the Tenant disputed the Notice, the Tenant has not paid January 2014 rent and has not moved out of the unit. The Tenant states that she is in the process of a dispute with the

ministry over their payment of her rent but that she still intends to be out of the unit by March 3, 2014 or sooner if necessary.

The Landlord states that rent of \$557.00 was also not paid for February 2014 and that the rent was reduced to \$472.00 for March 2014. The Tenant states that in January 2014 she applied for an additional rent subsidy from the Landlord and that she was told that rent for February and March 2014 was reduced to \$175.00 for each month. The Landlord disputes this and states that no financial evidence was provided for any months past January 2014. The Landlord claims unpaid rent for January and February 2014.

#### Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. Based on the undisputed evidence of the Parties I find that the Tenant was given a valid Notice and has not paid the rent for January 2014. I find therefore that the Landlord is entitled to an **Order of Possession**.

Given the Tenant's dispute of the amount of rent payable for February 2014, noting that this evidence seemed credible, and considering the Landlord's lack of supporting evidence in relation to rental amounts payable for February 2014, I find on a balance of probabilities that the Landlord has only substantiated the amount of rent that is not disputed: **\$554.00** for January 2014 and **\$175.00** for January 2014. The Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$779.00**. Setting the security deposit of **\$513.00** plus zero interest off the entitlement leaves **\$266.00** owed by the Tenant to the Landlord.

#### Conclusion

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

**I order** that the Landlord retain the **deposit** and interest of \$513.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$266.00**. If necessary, this order may be filed in the Small Claims 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 24, 2014

