



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC  
MT / CNC

### Introduction

This hearing concerns 2 applications: i) by the landlords for an order of possession for cause, and ii) by the tenants for more time to make an application to cancel a notice to end tenancy / and cancellation of a notice to end tenancy for cause.

Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on January 01, 2011. The tenancy agreement documents that when tenancy began, monthly rent of \$2,000.00 was due and payable in advance on the first day of each month. A security deposit of \$1,000.00 was collected.

The landlords issued a 1 month notice to end tenancy for cause dated May 12, 2014. The notice was served by way of registered mail which was sent on May 14, 2014. Documentary evidence submitted includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was “successfully delivered.” A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is July 01, 2014. The reason identified on the notice in support of its issuance is as follows:

Tenant is repeatedly late paying rent.

The landlords claim that rent has been paid late for the months of December 2013, in addition to January through to May 2014. The tenants claim that “the few late payments

were agreed upon from the landlord, all cheques were post dated and there was communication in regards to depositing these.”

The tenants filed an application to dispute the notice on May 30, 2014, and the landlords filed their own application for dispute resolution on July 03, 2014.

During the hearing the parties undertook to resolve the dispute.

### Analysis

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

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

### **RECORD OF SETTLEMENT**

- that the tenants will vacate the unit by no later than **July 31, 2014**, and that an **order of possession** will be issued in favour of the landlords to that effect.

For information, the attention of the parties is also drawn to section 26 of the Act which speaks to **Rules about payment and non-payment of rent**, in part:

26(1) 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.

Further, section 47 of the Act speaks to **Landlord's notice: cause**, and provides in part:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (b) the tenant is repeatedly late paying rent;

Additionally, Residential Tenancy Policy Guideline # 38 addresses “Repeated Late Payment of Rent,” in part:

Three late payments are the minimum number sufficient to justify a notice under these provisions.

Finally, as the end of tenancy nears, the attention of the parties is also drawn to the following sections of the Act:

Section 37: **Leaving the rental unit at the end of a tenancy**

Section 38: **Return of security deposit and pet damage deposit**

#### Conclusion

Pursuant to the settlement achieved by the parties during the hearing, I hereby issue an **order of possession** in favour of the landlords effective not later than **July 31, 2014**.

This order must be served on the tenants. Should the tenants 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.

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: July 21, 2014

---

Residential Tenancy Branch

