



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      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 one month Notice to End Tenancy and the 10 day Notice to End Tenancy was sufficiently served on the Tenant. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the tenant was sufficiently served on the Landlord. The Landlord failed to serve the Application for Dispute Resolution that he has filed.

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated July 3, 2014?
- b. Whether the Tenant is entitled to an order cancelling the one month Notice to End Tenancy dated June 24, 2014?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to A Monetary Order and if so how much?
- e. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?

- f. 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 June 15, 2014 and continue on a month to month basis. The rent is \$825 per month payable on the first day of each month. The tenant paid a security deposit of \$412.50 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of July and August and the sum of \$1650 is owed. The tenant(s) have remained in the rental unit.

### Application to Cancel the 10 day Notice to End Tenancy

After carefully considering all of the evidence I determined that the tenant has failed to establish sufficient cause to have the 10 day Notice cancelled. The Residential Tenancy Act provides that a tenant cannot withhold the rent even where the landlord has failed to do what he is obliged to do. The tenant has not paid the rent for July and August and \$1650 remains outstanding. As a result I ordered that the application of the tenant to cancel the 10 day Notice be dismissed without liberty to re-apply.

### Order for Possession

The Residential Tenancy Act provides that where a landlord has made an oral request for an Order for Possession at a hearing where an arbitrator has dismissed a tenant's application to set aside a Notice to End Tenancy, the arbitrator must grant an Order for Possession. The landlord made this request at the hearing. **As a result I granted the landlord an Order for Possession. The parties agreed I should set the effective date of the Order for Possession for August 31, 2014.**

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.

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.

Tenant's application to cancel the one month Notice

It is no longer necessary to consider the tenant's application to cancel the one month Notice to End Tenancy as the tenancy is coming to an end as a result of the 10 day Notice.

Landlord's Application:

The landlord failed to serve the tenant with a copy of the Application for Dispute Resolution/Notice of Hearing filed by the landlord. As a result I dismissed the application with liberty to re-apply.

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 22, 2014

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Residential Tenancy Branch

