



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes AS, LAT, CNR, CNC, OPR, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant also filed an application seeking to have a One Month Notice to End Tenancy set aside, an order to have a Ten Day Notice to End Tenancy for Unpaid rent or Utilities set aside, an order to allow the tenant to assign or sublet because the landlords permission has been unreasonably withheld and an order to allow the tenant to change the locks to the rental unit.

Both parties participated in the conference call hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing. All documentation and testimony was considered in making a decision.

### Issues to be Decided

Is either party entitled to any of the above under the Act, regulation or tenancy agreement?

### Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about September 1, 2013. Rent in the amount of \$1350.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of August and on August 8, 2014 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of September; the

landlord stated that he is asking for the loss of revenue for October due to the timing of this hearing and the likelihood of him not being able to rent it right away.

The tenant stated that he did not dispute that the rent was not paid. The tenant stated that he just wasn't sure how much he owed. The tenant stated that he had made several attempts to pay the rent but was barred from paying. The tenant stated that the audio CD submitted for this hearing supports his position. The tenant stated that he applied for dispute resolution on August 20, 2014.

### Analysis

I accept the landlord's testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution within the 5 day legislated timeline. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the 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.

It is worth noting that even if the tenant had filed within the legislated timeline, the tenant did not provide sufficient disputing evidence to have the notice set aside. In the tenants own testimony he conceded that he withheld rental payments without an order from the Branch or by the agreement of the landlord.

Due to the time of this hearing and the time involved for the administration of this decision I find that the landlord is entitled to the unpaid rent for August and September as well as the month of October.

As for the monetary order, I find that the landlord has established a claim for \$4050.00. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord an order under section 67 for the balance due of \$4100.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The tenant has not been successful in his application.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$4100.00.

I dismiss the tenants' application in its entirety.

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: October 2, 2014

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Residential Tenancy Branch

