



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, FF  
CNR, MNDC

### Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent / and a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement. 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 month-to-month tenancy began on July 15, 2014. Monthly rent of \$700.00 is due and payable in advance on the first day of each month. Even while the tenancy agreement documents that a security deposit of \$400.00 was collected, the landlord testified that the amount of security deposit collected was limited to \$350.00.

Arising from rent which remained unpaid when due on September 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 20, 2014. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is October 30, 2014. Subsequently, the tenant filed an application to dispute the notice on October 21, 2014. The landlord claims that no rent has been paid for September, October or November 2014, while the tenant claims that rent has been paid in full for those months. The parties agree that on those occasions when payments have been made toward rent, the payments have been in cash and no receipts have been issued.

As to the tenant's claim for compensation, he testified that it arises from an occasion when he considers that his right to quiet enjoyment was breached.

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.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)

Section 63 of the Act addresses 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 tenant will vacate the unit by not later than **Sunday, November 30, 2014**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that the **landlord withdraws the application for compensation** for unpaid rent for September, October and November 2014 (3 x \$700.00), in addition to recovery of the \$50.00 filing fee;
- that the **tenant withdraws the application for compensation** of \$5,000.00 for damage or loss under the Act, Regulation or tenancy agreement.

Going forward, the attention of the parties is drawn to section 26 of the Act which addresses **Rules about payment and non-payment of rent**, and provides in part:

26(2) A landlord must provide a tenant with a receipt for rent paid in cash.

Finally, as the end of tenancy nears, the particular 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 agreement reached between the parties during the hearing, I hereby issue an **order of possession** in favour of the landlord effective not later than **Sunday, November 30, 2014**. This order must be served on the tenant. 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.

Other issues in dispute have also been resolved between the parties as set out above in the RECORD OF SETTLEMENT.

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: November 18, 2014

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Residential Tenancy Branch

