



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MT, CNR, CNC, RR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a 1 Month Notice to End Tenancy for Cause, issued on August 30, 2014, to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, issued on September 12, 2014 and to allow a tenant to reduce rent for repairs, for services or facilities agreed upon but not provided.

The tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the amended Application for Dispute Resolution and Notice of Hearing were served in person on September 12, 2014. On September 16, 2014 and September 25, 2014, the landlord filed evidence. I find that landlord has been duly served in accordance with the Act and was fully aware of the hearing scheduled for today's date.

### Preliminary matter

In this case, the tenant has applied to be allowed more time to make an application to cancel a 1 Month Notice to End Tenancy for Cause (the "notice for cause"), issued and received on August 30, 2014.

On September 9, 2014, the tenant filed their application to waive the filing fee through the Service BC office, which was approved by the Residential Tenancy Branch. On September 10, 2014, the tenant's application for dispute resolution was accepted and filed.

As the tenant did file their application to waive the filing fee on September 9, 2014, which was within the required timeline under the Act, I find it appropriate to grant the tenant's application and allow the tenant an extension of time.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the notices to end tenancy for unpaid rent and cause. The balance of the tenant's applications is dismissed, with leave to re-apply.

### Issues to be Decided

Should the 10 Day Notice for Unpaid Rent be cancelled?

Should the 1 Month Notice to Cancel Tenancy for Cause be cancelled?

### Background and Evidence

The tenant testified that originally she lived with the landlord and rented two rooms while she was waiting for the basement unit to become vacant. On July 1, 2014, she moved into the basement unit. Rent in the amount of \$800.00 was payable on the first of each month. A security deposit of \$400.00 was paid by the tenant.

The tenant testified that on September 12, 2014, she received a notice for unpaid rent, in the amount of \$950.00. The tenant stated that rent was paid to the landlord as the Ministry of Social Services, issued a cheque to the landlord, which was cashed. The tenant stated that she has no idea what the extra \$150.00 is for, as rent has been paid in full each month. Filed in evidence are copies of cheque histories for July, August and September 2014, which support that tenant's testimony.

The tenant testified that she does not agree with the 1 Month Notice to End Tenancy for Cause, for the reasons issued.

The tenant testified that on October 24, 2014, the landlord locked her out of the rental unit by changing the locks and she not had full access to the rental premises, although rent had been paid for October 2014 and a cheque has been issued to the landlord for November 2014. The tenant stated that the landlord also has turned off services that were provided under the terms of the tenancy agreement, such as hydro, cable and internet.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the undisputed testimony of the tenant that rent was paid for September 2014, when the notice to end tenancy was issued on September 12, 2014, as that is supported by documentary evidence. Further, the cheques histories filed in evidence supports that the tenant had paid rent for each previous month of this tenancy.

As the landlord has failed to attend the hearing, I find the landlord has failed to prove rent was owed by the tenant. Therefore, I find the 10 Day Notice to End Tenancy for Unpaid rent is not a valid notice under the Act, and has no force or effect.

Where a tenant has applied to cancel a notice for cause Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

As the landlord has failed to attend the hearing, I find the landlord has failed to prove the notice for cause was issued for the reasons given in the notice. Therefore, I find the 1 Month Notice to End Tenancy for Cause, is not a valid notice under the Act, and has no force or effect.

In light of the above, I order that the tenancy will continue until legally ended in accordance with the Act.

In this case, the evidence of the tenant was that the landlord has locked her out of the rental premise. As I have ordered that the tenancy will continue, **I order** that the landlord must provide to the tenant immediate access to the rental unit as the tenant has the legal rights to possession under the Act. Should the landlord fail to comply with my order, the tenant is at liberty to seek further remedies under the Act, which may include monetary compensation.

Further, the evidence of the tenant was that the landlord has turned off services which were provided under the tenancy agreement. **I order** that the landlord must immediately restore all services provided under the tenancy agreement, such as hydro, cable and internet. Should the landlord fail to comply with my order, the tenant is at liberty to seek further remedies under the Act, which may include monetary compensation.

### Conclusion

The tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid rent, issued on September 12, 2014, and the 1 Month Notice to End Tenancy for Cause, issued on August 30, 2014, is granted. The tenancy will continue until legally ended in accordance with the Act.

I order that the landlord must provide to the tenant immediate access to the rental unit as the tenant has the right to possession under the Act.

I further order that the landlord must immediately restore all services to the rental unit that were provided under the terms of the tenancy agreement.

The balance of the tenant's application is dismissed with leave to reapply.

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 03, 2014

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Residential Tenancy Branch

