



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      For the landlord: OPR, OPC, MNR, MNDC, FF  
For the tenant: RP, ERP, DRI, CNC, MT

### Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the “Act”).

The landlord applied for an order of possession for the rental unit due to unpaid rent and alleged cause, a monetary order for money owed or compensation for damage or loss and unpaid rent, and for recovery of the filing fee.

The tenant applied for an order cancelling a 1 Month Notice to End Tenancy for Cause (the “Notice”), an order requiring the landlord to make repairs and emergency repairs to the rental unit, to dispute an additional rent increase, and for an order granting more time to make an application to cancel a notice to end tenancy.

The landlord’s agent (hereafter “landlord”) attended the hearing; the tenant did not attend.

The landlord submitted documentary evidence that the tenant was served with their Application for Dispute Resolution and Notice of Hearing by registered mail on September 26, 2014.

Based upon the landlord’s submissions, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act, and the hearing proceeded on the landlord’s application in the tenant’s absence.

Thereafter the landlord was provided the opportunity to present her evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Procedural matter*-Despite having her own application for dispute resolution set for hearing on this date and time, the application of the landlord and the Notice of these Hearings, the tenant did not appear.

Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenant, without leave to reapply.

#### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit, monetary compensation, and for recovery of the filing fee paid for this application?

#### Background and Evidence

The landlord's evidence shows that this tenancy began on July 1, 2011, and that monthly rent is \$1250, plus a parking fee.

The landlord supplied oral and documentary evidence that on September 11, 2014, she served the tenant with a 1 Month Notice to End Tenancy for Cause by attaching it to the tenant's door, listing an effective vacancy date of October 11, 2014. Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenant was deemed to have received the Notice on September 14, 2014.

A notice to end the tenancy is not effective earlier than one month after the date the tenant receives the notice and the day before the day in the month that rent is payable under the tenancy agreement. In other words, one clear calendar month before the next rent payment is due is required in giving notice to end the tenancy. Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to October 31, 2014.

The Notice explained that the tenant had ten (10) days to file an application for dispute resolution at the Residential Tenancy Branch ("RTB") in dispute of the Notice. It also explains that if the tenant did not file an application to dispute the Notice within ten days,

then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice. In this case, the tenant did file an application, but not within the 10 days allowed, as the application was made by the tenant on October 10, 2014. Additionally, the tenant failed to appear to support her request for additional time to file an application to dispute the Notice.

The landlord submitted further that through the end of September, 2014, the tenant owed \$270 for unpaid rent, which did not include the parking fee of \$25 per month, and that the tenant has not paid rent for November 2014.

The landlord's relevant documentary evidence included a copy of the written tenancy agreement and a copy of several Notices to end the tenancy, a tenant ledger sheet, and a written communication with the tenant.

### Analysis

I accept the landlord's undisputed evidence that the tenant was served a 1 Month Notice to End Tenancy for Cause and did not apply to dispute the Notice within ten days of service. I therefore find the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

As to the landlord's request for unpaid rent, I accept the landlord's statement that the tenant owed the amount of \$270 through September 2014.

I also grant the landlord recovery of their filing fee of \$50.

I therefore find that the landlord is entitled to a monetary award in the amount of \$320, comprised of outstanding rent of \$270 through September 2014, and the \$50 filing fee paid by the landlord for this application.

I have not dealt with the landlord's request for unpaid rent beyond September and parking fees, and the matter of their monetary claim dealt only with unpaid rent through the date of their application. The landlord is granted leave to reapply for any further losses not directly related to unpaid rent through September 2014.

### Conclusion

The landlord's application is granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlords' Decision. The order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court if it should become necessary. The tenant is advised that costs of such enforcement are recoverable from the tenant.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$320, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after the order has been served upon him, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

The tenants' application is dismissed without leave to reapply, due to her failure to appear in support of her application and as I have granted the landlord's application.

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 12, 2014

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Residential Tenancy Branch

