



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNR, MNDC, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, a monetary Order for unpaid rent, and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, to call witnesses, and to make relevant submissions.

The female Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the Tenant, via registered mail. The Tenant stated that she moved from the service address noted on the Application for Dispute Resolution and she did not, therefore, receive these documents until December 05, 2014. As the Tenant acknowledged receipt of these documents, they were accepted as evidence for these proceedings.

The Tenant stated that documents she wishes to rely upon as evidence were personally delivered to the Landlord by the Tenant's witness on December 08, 2014. The Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

### Preliminary Matter

The Tenant asked that this matter be joined with another Dispute Resolution Proceeding, as that matter deals with the same rental unit, the same landlord, and essentially the same issues. The Tenant stated that the Respondent in the other Dispute Resolution Proceeding is a female who resided in the same rental unit under a separate tenancy agreement.

The Landlord opposed the application to join the matters. The male Landlord stated that in a previous Application for Dispute Resolution the Landlord named this Tenant

and the female who resided in the rental unit under a different tenancy agreement, and that matter was dismissed after it was determined they occupied the rental unit under separate tenancy agreements.

As the Tenant and the Respondent in the other Dispute Resolution Proceeding occupied the rental unit under separate tenancy agreements, I determined that the two disputes should be heard separately. I find it entirely possible that the tenancy agreements may have different terms, which would unnecessarily complicate these proceedings. I also find it entirely possible that one party could have the right to withhold rent or prematurely end their tenancy and that this right would not necessarily be transferred to a party occupying the unit under a separate tenancy.

#### Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent/lost revenue?

#### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on February 01, 2014; that the Tenant agreed to pay \$550.00 in rent by the first day of each month; and that two other people lived in the rental unit during the tenancy.

The male Landlord stated that the other two people living in the rental unit, one of whom is his son, occupied the rental unit under separate tenancy agreements. He stated that his son did not act as an agent for the Landlord during the tenancy, although the Tenant was advised that she could report the need for repairs to his son. He stated that he occasionally hired his son to make repairs to the rental unit but he did not have any authority to manage the rental unit.

The female Landlord stated that on one occasion near the beginning of the tenancy she referred to the son as a "property manager" but she only meant that problems could be reported to him, who would pass them on to the Landlord.

The Tenant contends that the Landlord's son was acting as an agent for the Landlord during this tenancy, in part, because she was told to report problems with the residential complex to him. She contends that he was acting as an agent for the Landlord, in part, because on one occasion she provided him with post-dated cheques, with the understanding that they would be passed on to the Landlord.

The Landlord and the Tenant agree that on April 23, 2014 the Tenant gave the Landlord written notice of her intent to vacate the rental unit on April 30, 2014; that the Tenant did vacate the rental unit on April 30, 2014; and that the Tenant did not pay rent for May of 2014.

The male Landlord stated that sometime between April 23, 2014 and April 30, 2014 the Landlord advertised the rental unit on two popular websites. He stated that a new tenant was found for June 01, 2014.

The Tenant stated that on April 15, 2014 she and the two other people living in the rental unit were involved in a heated argument, primarily regarding the Landlord's son using her property and an upcoming party. She stated that during the argument the Landlord's son pushed the third occupant of the residential complex. The Tenant provided a detailed written account of this incident, which she stated left her feeling threatened and intimidated. She acknowledged that the Landlord's son did not touch her or threaten to harm her, although she contends he threatened to evict her.

The Witness for the Tenant stated that she lived in the rental unit with the Tenant and the Landlord's son. She stated that on April 15, 2014 she and the two other people living in the rental unit were involved in a heated argument, primarily regarding the Landlord's son using items belonging to the Tenant. She stated that during the argument the Landlord's son grabbed her arm and tried to push her out of the kitchen of the residential complex. The Witness for the Tenant provided a detailed written account of the incident, which she stated frightened her and caused her to cry.

The Witness for the Tenant stated that she met with the female Landlord on April 16, 2014, at which time the Landlord told her that she would not charge rent for May if the Tenant felt unsafe in the unit.

The Witness for the Landlord stated that he lived in the rental unit with the Tenant and the Tenant's witness. He stated that on April 15, 2014 he and the two other people living in the rental unit were involved in a heated argument, primarily regarding him using items belonging to the Tenant, the Tenant not leaving his room when requested to do so, treating each other respectfully, and an upcoming party. He stated that the Witness for the Tenant was "yelling in his face". He acknowledged using profanities and at one point he placed his hand on the Witness for the Tenant's shoulder and told her to leave the kitchen, although he denies pushing her.

The Witness for the Landlord stated that he did not identify himself as a property manager during this argument; that he did not tell the Tenant he had difficulty with confrontational women; and that when the Tenant asked if he was trying to intimidate them he told her that was not his intent. The Witness for the Landlord provided a detailed written account of the incident.

The Landlord and the Tenant agree that the Tenant and the female Landlord discussed this incident on April 16, 2014. The female Landlord stated that she suggested the parties have a "cooling off period" and that she would consider not charging rent for May if the matter could not be resolved. The Tenant stated that when she met with the female Landlord on April 16, 2014 the Landlord told her that she would not charge rent for May if the Tenant felt unsafe in the unit.

The Landlord and the Tenant agree that they met again on April 22, 2014 to discuss the incident but they could not find a mutually agreeable resolution. The parties agree that during this meeting the Landlord clearly informed the Tenant that they expected her to pay rent for May.

The Tenant contends that the Landlord did not make enough effort to resolve the conflict between the occupants and that the only solution she would have found acceptable was to end the tenancy of the Landlord's son.

The Landlord is seeking compensation for re-keying the locks to the rental unit, as the Landlord was concerned that the Tenant had not returned all of the keys to the rental unit. The male Landlord stated that they had lost faith in the Tenant and were concerned that she might return to the unit.

The Tenant stated that she was given one key to the rental unit, that she never copied the key, and that she returned her only key to the rental unit.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$550.00 by the first day of each month. Section 26(1) of the *Residential Tenancy Act (Act)* requires tenants to pay rent to their landlord when it is due.

On the basis of the undisputed evidence, I find that the Landlord's son was a tenant in the rental unit. I find that there is insufficient evidence to show that he was an agent for the Landlord. In reaching this conclusion I was heavily influenced by the testimony of the male Landlord, who stated that his son was not acting as an agent for the Landlord. I was also influenced, to a lesser degree, by the fact the son is not identified as an agent for the Landlord in the tenancy agreement or in any other document created by the Landlord.

While I accept that the Landlord's son passed on some rent cheques to the Landlord on one occasion and that he would pass on the need for repairs to the Landlord on occasion, I find these actions are logically explained by their familial relationship and do not, in and of themselves, establish that he was acting as an agent for the Landlord in this tenancy.

On the basis of the undisputed evidence, I find that on April 23, 2014 the Tenant provided the landlord with written notice of her intent to end this tenancy on April 30, 2014; and that she vacated the rental unit on April 30, 2014. Section 45 of the *Act* stipulates that a tenant may end a periodic tenancy by providing the landlord with written notice to end the tenancy on a date that is not earlier than one month after the date the landlord received the notice and is the day before the date that rent is due.

To end this tenancy on April 30, 2014 in accordance with section 45 of the *Act*, the Tenant was required to give notice of her intent to vacate on, or before, March 31, 2014.

Section 53 of the Act stipulates that if a tenant gives notice to end a tenancy on a date that is earlier than the earliest date permitted by the legislation, the effective date is deemed to be the earliest date that complies with the legislation. In these circumstances, the earliest effective date of the notice that was given on April 23, 2014 was May 30, 2014.

As the Tenant did not give proper notice to end the tenancy at the end of April, I find that she is obligated to pay rent for May of 2014. Although she vacated the rental unit prior to May of 2014, the late notice she provided made it extremely difficult for the Landlord to find a new tenant for May 01, 2014. I therefore find that the Tenant must compensate the Landlord for lost revenue experienced during the month of May.

In determining this matter I accept that the three people living in the rental unit became involved in a heated argument on April 15, 2014. On the basis of the Tenant's own testimony, I find that she contributed to the conflict by using a raised voice during the argument. While there is no doubt this was an unpleasant event, I simply cannot conclude that the Tenant had grounds to end this tenancy prematurely on the basis of this isolated incident.

In reaching this conclusion I note that there was no violence or threat of violence toward the Tenant. Given that the Tenant was willing and able to reside in the rental unit between April 15, 2014 and April 30, 2014, I find she should have been able to reside in the rental unit until May 30, 2014, which is when she could legally end her tenancy.

In determining this matter I find that the Landlord did make a reasonable effort to resolve the conflict between the Tenant and their son. I find that suggesting a "cooling off period" was reasonable, given the nature of the dispute between the parties and the fact the Tenant and the Landlord's son had not had any physical contact. In the event the Landlord's son contributed to conflict after this cooling off period, I find that the Landlord would likely have been required to take further action, such as ending the tenancy of any or all persons contributing to the conflict.

I find that the Landlord has submitted insufficient evidence to show that the Tenant did not return all of the keys to the rental unit. I therefore find that the Landlord is not entitled to compensation for changing the locks of the rental unit, as there is no evidence to corroborate their suspicion that the Tenant would return to the rental unit.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$600.00, which is comprised of \$550.00 in lost revenue and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these

determinations I grant the Landlord a monetary Order for \$600.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: December 17, 2014

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Residential Tenancy Branch

