



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACIFIC QUORUM PROPERTIES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNR OPR FF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for unpaid rent pursuant to section 46; and
- b) To recover the filing fee for this Application.

Service:

The Notice to End Tenancy is dated November 17, 2014 and the tenant confirmed it was served by posting it on the door. The tenant /applicant gave sworn evidence that they personally served the Application for Dispute Resolution. I find the documents were legally served for the purposes of this hearing.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that there is unpaid rent? Or is the tenant entitled to any relief? Is the tenant entitled to recover filing fees?

Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

### **Background and Evidence**

The landlord did not attend the hearing although served with the Notice of Hearing. The tenant was given opportunity to be heard, to provide evidence and to make submissions. The tenant said he paid his rent by postdated cheques and he provided proof that his rent cheque for November was cashed. He said he first sublet the unit, then had his own tenancy agreement for rent of \$725 commencing in early 2012; rent is now \$765 a month.

In early years, the tenant said there was a leak and the manager at the time told him he would not have to pay rent that month. Since then there have been several managers and the tenant speculated that there may have been a mix-up in accounting. He said

when he served this application on the landlord, the person in the office said that they would investigate and something may have to be written off. However, he did not hear from them again.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

**Analysis:**

The onus is on the landlord to prove on a balance of probabilities that there is unpaid rent and therefore cause to evict the tenant. I find the evidence of the tenant credible that he has paid his rent on time as it is well supported by the copy of his cashed rent cheque for November 2014 and bank accounts going back several months showing his rent was paid. I set aside the Notice to End Tenancy dated November 17, 2014.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is successful. The Notice to End Tenancy dated November 17, 2014 is hereby set aside and the tenancy is reinstated. As the tenant was successful, I find him entitled to recover his \$50 filing fee.

**I HEREBY ORDER that the tenant may recover his \$50 filing fee for this application by deducting \$50 from his rent for January 2015.**

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 09, 2014

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Residential Tenancy Branch

