



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MT, CNR, MNDC, ERP, RP, PSF, LRE, LAT, RR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

This hearing also dealt with the tenants' cross-application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent, dated December 2, 2014 ("10 Day Notice"), pursuant to section 66;
- cancellation of the landlord's 10 Day Notice, pursuant to section 46;
- a monetary order for money owed or for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67;
- authorization to change the locks to the rental unit, pursuant to section 70;
- an order to the landlord to make repairs to the rental unit and to make emergency repairs for health or safety reasons, pursuant to section 33;
- an order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit, pursuant to section 70;
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlord and his agent, KA (collectively “landlord”) and both tenants attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses. At the outset of the hearing, the landlord confirmed that his agent, KA, had authority to speak on his behalf and act as his interpreter of the English language, at this hearing.

The landlord testified that the tenants were served with the landlord’s application for dispute resolution on December 11, 2014, by way of registered mail. The tenants confirmed receipt of the landlord’s application. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were duly served with the landlord’s application, as declared by the parties.

The tenants testified that the landlord was personally served with the tenant’s application for dispute resolution hearing notice in December 2014 and the written evidence package on January 10, 2014. The landlord confirmed receipt of the tenants’ hearing notice and written evidence, with the exception of banking records. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants’ hearing notice and written evidence, as declared by the parties. The landlord agreed to proceed with the hearing on the basis of the tenants’ late written evidence, even though it was not provided 14 days prior to this hearing as per Rule 3.14 of the Residential Tenancy Branch Rules of Procedure. The landlord agreed that he had received the evidence and reviewed it, that the evidence was simply a summary of the tenants’ position, and he was not prejudiced in proceeding with the hearing.

#### Issues to be Decided

Are the tenants permitted more time to make an application to cancel the landlord’s 10 Day Notice?

Should the landlord’s 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary award for unpaid rent?

Are the tenants entitled to a monetary award for money owed or for compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Are the tenants authorized to change the locks to the rental unit?

Are the tenants entitled to an order for the landlord to make repairs to the rental unit and/or to make emergency repairs for health or safety reasons?

Are the tenants entitled to an order to allow them to reduce rent for repairs, services or facilities agreed upon but not provided?

Are the tenants entitled to an order for the landlord to provide services or facilities required by law?

Are the tenants entitled to an order to suspend or set conditions on the landlord's right to enter the rental unit?

Are the tenants and/or the landlord entitled to recover the filing fee for this application?

### Background and Evidence

The landlord testified that this tenancy began on December 1, 2014, but that the tenants had permission to enter the rental unit prior to this date, only to install carpet and repaint the unit. The tenants testified that this tenancy began on November 25, 2014, when they were permitted by the landlord to occupy the rental unit. Monthly rent in the amount of \$1,500.00 is payable on the first day of each month. A security deposit of \$750.00 was paid by the tenants on November 24, 2014, which the landlord continues to retain. The landlord testified that a written tenancy agreement was signed by both parties on November 24, 2014. The tenants continue to reside in the rental unit.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on January 31, 2015, by which time the tenants and their three children will have vacated the rental unit;

2. The landlord agreed to provide a receipt for the \$750.00 security deposit paid by the tenants and a copy of the tenancy agreement, to the tenants by January 12, 2015;
3. The tenants agreed to pay the landlord a total of \$2,350.00 by 1:00 p.m. on January 21, 2015, in full satisfaction of all claims made by both parties in this cross-application hearing dispute;
4. The landlord accepts the above total amount of \$2,350.00 in lieu of the \$3,000.00 total amount owing for December 2014 and January 2015 rent for this tenancy;
5. The tenants accept that paying the above amount of \$2,350.00 to the landlord, for reduced December 2014 and January 2015 rent, is full compensation for all claims made by them in their application, including for:
  - a. repairs of \$42.00 for the fridge at the rental unit;
  - b. \$26.00 for the new thermostat at the rental unit;
  - c. any other repairs and emergency repairs at the rental unit;
  - d. a loss of the use of the fridge, stove and thermostat at the rental unit, during this tenancy;
  - e. a loss of any food, including Christmas 2014 food in the amount of \$373.00, at the rental unit, during this tenancy; and
  - f. any other losses, compensation, pain and suffering, with respect to this cross-application hearing dispute;
6. Both parties agree to bear the cost of their own filing fees for their applications, including \$100.00 for the tenants' application and \$50.00 for the landlord's application.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties gave verbal sworn affirmation at the hearing that they agreed to the above terms, which settle all aspects of this dispute.

As advised to both parties during this hearing, the tenants' application for a monetary award for a loss of various items during a robbery at the rental unit on November 29, 2014, in the amount of approximately \$5,600.00, is dismissed without leave to reapply. The tenants did not provide sufficient evidence that this loss was due to the landlord's negligence. The tenants stated that they will continue pursuing this matter through the police.

### Conclusion

To give effect to the settlement reached between the parties, I issue the attached Order of Possession to be used by the landlord **only** if the tenants and their three children fail to vacate the rental premises by 1:00 p.m. on January 31, 2015. The landlord is

provided with this Order in the above terms and the tenants must be served with this Order in the event that the tenants and their three children do not vacate the premises by 1:00 p.m. on January 31, 2015. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$2,350.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenants do not pay \$2,350.00 to the landlord by 1:00 p.m. on January 21, 2015. The landlord is provided with this Order in the above terms and the tenants must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above monetary agreement. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlord's 10 Day Notice, dated December 2, 2014, is cancelled and of no force or effect.

The tenants' application for a monetary award for a loss of various items during a robbery at the rental unit on November 29, 2014, in the amount of approximately \$5,600.00, is dismissed without leave to reapply. The tenants stated that they will continue pursuing this matter through the police.

As advised to both parties during the hearing, the security deposit paid by the tenants for this tenancy, will be dealt with at the end of this tenancy in accordance with the *Act*.

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: January 14, 2015

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Residential Tenancy Branch

