



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            CNC, FF

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was sufficiently served on the Tenant by posting on January 20, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on January 22, 2015. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a.        Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated January 20, 2015 and setting the end of tenancy for February 28, 2015?
- b.        Whether the tenant is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into an one year fixed term tenancy agreement that provided that the tenancy began on August 1, 2013 end on July 31, 2014 and become month to month after that. The present rent is \$1060 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$525 on July 23, 2013.

The tenant has experience difficulties paying the rent on the due date. The landlord produced evidence showing that they have served a 10 day Notice to End Tenancy on the tenant on 11 occasions commencing October 2013. The tenant has experience financial difficulties because of a work related injury and finds it impossible to pay the rent in full on the first day of each month but does pay the rent including a late fee by the time the month ends. The tenants have a 12 year child who is in school in the area.

The tenant presented evidence that provides that they hope to get into government housing.

#### Grounds for Termination

The Notice to End Tenancy relies on section 47(1)(b) and (h) of the Residential Tenancy Act which provide as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(b) the tenant is repeatedly late paying rent;

(h) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

#### Settlement:

During the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The tenants shall pay to the landlord the balance of rent (including the \$25 late fee) in the sum of \$585 on or before February 21, 2015;
- b. The tenants shall pay to the landlord the sum of \$555 on or before the 6<sup>th</sup> day of each month and the balance of \$530 on or before the 21<sup>st</sup> day of the month for the rent for March, April, May and June commencing on March 6, 2015;
- c. The payment shall be by cash, bank draft or money order if the payment is made to the Head Office or by bank draft or money order if the payment is made to the caretaker.  
The tenant shall not make a cash payment to the caretaker.

- d. If the tenants fail to make any one of the payments as provided above the landlord shall be at liberty to serve a 10 day Notice to End Tenancy for non-payment of rent and take steps to obtain an Order for Possession;
- e. The parties mutually agree to end the tenancy on June 30, 2015 and have requested the arbitrator to issue an Order for Possession for that date;
- f. The landlord has represented that he is prepared to reinstate the tenancy commencing July 1, 2015 provided the tenants make the payments above, the tenants pay the rent in full commencing July 1, 2015 and the tenants advise the landlord in writing on or before May 31, 2015 that they wish to remain in the rental unit and will pay the rent in full commencing July 1, 2015.

Determination and Orders

**As a result of the settlement I issued an Order for Possession effective June 1, 2015. I**  
dismissed the claim for the cost of the filing fee. .

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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: February 10, 2015

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Residential Tenancy Branch

