



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TYRONE ENTERPRISES LTD., VANCOUVER EVICTION SERVICES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes : cnr, erp, mndc, rp, rpp, rr, mnr, mnsdc, mnsd, opr, ff

### Introduction

The tenant has applied for dispute resolution, seeking an order cancelling a 10 day Notice to End Tenancy (for unpaid rent or utilities). The landlord requests an Order of Possession, a Monetary Order, and an order to retain the security deposit.

The tenant has numerous claims as well, and while he hoped to have all these dealt with in one hearing, he acknowledged he did not want to move, and accordingly it became clear that the key issue of the claim was the tenant's request to cancel the 10 day Notice to End Tenancy.

Rule 1.1 of the Rules of Procedure states that the objective of the Rules of Procedure is to ensure a fair, efficient and consistent process for resolving disputes. Rule 2.3 provides that claims made in the application must be related to each other, and that Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply. In this case, the tenant has applied for a number of unrelated matters. These included the claim to cancel the 10 day Notice to End Tenancy, a variety of monetary claims, claims for repairs, and a claim for recovery of personal possessions. These various claims of the tenant are not all related to each other, and I determined that some would proceed, while others would not. I determined that the foundational issue was whether or not the tenancy would end, or alternatively whether the Notice to End the tenancy would be cancelled and the tenancy continue. The landlord's claims were all related to that issue. As testimony unfolded, I determined it was appropriate to also decide the claims by the tenant regarding laundry service, parking, and the security deposit. The remaining issues claimed by the tenant are all dismissed as unrelated, with liberty granted to reapply.

### Issues to Be Decided

- Is the Notice to End Tenancy (the "Notice") served upon the tenant effective to end this tenancy, and entitle the landlord to an Order of Possession, or should the Notice be cancelled, and the tenancy continue?
- Is there rent money due and payable by the tenant to the landlord?

- Has the tenant paid a security deposit, and if so, is the landlord entitled to retain the deposit in partial satisfaction of the amount owing?
- Does the landlord owe money to the tenant for failing to include a parking spot in the tenancy, and failing to provide the service of laundry?

### Background and Evidence

The tenant initially resided in the premises with a co-tenant. That co-tenant moved out without notice, and on July 1, 2014 a new written tenancy agreement was entered into between the tenant and the landlord. Pursuant to that agreement, the monthly rent was \$875.00, due on or before the 1<sup>st</sup> day of each month. The security deposit that had been paid under the prior agreement was assigned to this tenancy, in the sum of \$437.00. The agreement stated that laundry services were included, but that parking was not.

The tenant wanted certain contentious issues in his tenancy resolved (Including issues of parking and laundry), and therefore elected not to pay his February rent ostensibly to pressure the landlord into settling the issues. On February 7, 2015, the landlord served the tenant a 10 day Notice to End Tenancy for failing to pay February's rent. The tenant did not pay the rent, but filed a dispute of the Notice. No rent has been paid since by the tenant, for either February or March.

In terms of laundry, the tenant claims that the landlord failed to provide free laundry service throughout the term of his tenancy. At the hearing, the landlord agreed that the tenancy agreement of July 1, 2015 stated that laundry was included, and both parties agreed that the value of the laundry was \$12.00 per week.

In terms of parking, the tenancy agreement does not provide for free parking. The tenant acknowledged he did not notice this when he signed the agreement. He assumed the parking would be included, because it had been included in previous tenancy agreements with his former co-tenant, and had been told that parking would be included. The tenant contended the value of the parking is \$50.00 per month. The landlord denied that there was an agreement that free parking would be included in the July 1, 2014 agreement, because at that time the tenant did not have a car. The landlord considers that the value of the parking is \$20.00 to \$25.00 per month.

### Analysis

Section 26(1) of the Residential Tenancy Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Residential Tenancy Act or the tenancy agreement. This means the tenant was required to pay his February rent on or before the first day of February, whether or not he had a monetary claim as against the landlord. No agreement existed to permit the tenant to

deduct any sums allegedly owed by the landlord from his rent obligations. The proper approach for the tenant to have pursued was to pay his rent, and to pursue his monetary claim separately. I find no basis therefore, to cancel the 10 day Notice to End the Tenancy. The rent was clearly due on February 1, and was not paid within the 5 day period required under the terms of the Notice. The Notice is therefore found effective to end this tenancy, and the landlord has established a right to possession. The tenant's claim to cancel the notice is dismissed. The landlord is awarded an Order of Possession, effective 48 hours following service upon the tenant.

No rent has been paid for either February or March, and allowing for the time for this decision to reach the landlord, for the landlord to serve the tenant, and for the tenant to vacate, I find that the landlord will suffer a loss of rental income until at least March 15, for which the tenant is liable. The landlord is therefore entitled to an award of \$1,312.50 representing the loss of rental income for February and half of March. The landlord may also recover their \$50.00 filing fee from the tenant.

The landlord acknowledges that the tenant has paid a security deposit of \$437.00. The landlord may retain the security deposit in partial satisfaction of the award, leaving a balance owing by the tenant to the landlord of \$925.50.

As further acknowledged by the landlord, the tenancy agreement states that laundry service will be provided by the landlord. It is agreed by both parties that the value of this service is \$12.00 per month. I also accept that this tenancy of this tenant (without his co-tenant) began effective July 1, 2014, as confirmed by the written tenancy agreement signed by the parties. This equals a total of 36 weeks, which amounts to the sum of \$432.00. This sum is owed by the landlord to the tenant, in compensation for failing to provide laundry service to the tenant.

The tenancy agreement is clear that parking is not included, and the tenant knew or should have known when he signed this agreement that parking was not included. The tenant is bound by terms of the written agreement he made with the landlord. Any discussions leading up to the actual signing of the agreement have not been proven to be contractual terms. I therefore find that there is no agreement for parking in this tenancy. This portion of the tenant's claim is dismissed.

### Conclusion

Pursuant to Section 55 of the Residential Tenancy Act, I issue an Order of Possession, effective 48 hours following service upon the tenant. Should the tenant fail to comply

with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord may retain the security deposit of \$437.00.

The landlord is awarded \$925.50, while the tenant is awarded \$432.00. The net result is that the tenant must pay the sum of \$493.50 to the landlord. A monetary order for this sum is issued to the landlord.

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: March 04, 2015

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Residential Tenancy Branch

