



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, MNDC, RR

### Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The male tenant (the tenant) testified that he was representing his interests and those of his wife who was also in attendance. He said that her hearing impairment prevented her from participating in this teleconference hearing, although he was able to consult with her at times to seek her input.

The tenant confirmed that the tenants received the landlord's 1 Month Notice posted on their door on May 3, 2015. The landlord confirmed that he received a copy of the tenants' dispute resolution hearing package including their application for dispute resolution and the notice of this hearing sent to the landlord by registered mail on May 15, 2015. Although the tenant noted that the landlord's written evidence was not received until June 19, 2015, both parties confirmed that they did receive one another's written evidence in advance of this hearing. I am satisfied that the above documents were duly served to one another in accordance with sections 88 and 89 of the *Act*.

The landlord asked for the issuance of an Order of Possession in the event that the tenants' application to cancel the 1 Month Notice were dismissed.

### Preliminary Matters

The parties confirmed that another decision on this tenancy was issued by another Arbitrator appointed under the Act (the original Arbitrator) on April 20, 2015, the file number of which is noted in the title page of this decision. In that decision, the original Arbitrator dismissed much of the tenants' application for a monetary award. The original Arbitrator also ordered the landlord to undertake repairs or replacement of the entrance lock to the rental unit, as well as professional repairs to the bathroom ceiling. The original Arbitrator also ordered that the landlord ensure that the garage areas as cleaned and restored to a clean and orderly state. The tenant testified that he undertook the repairs to the lock himself. The landlord maintained that the upper tenants cleaned the garage to the extent required by the original Arbitrator's order. Both parties agreed that the bathroom ceiling has not yet been repaired. Both parties attributed responsibility for any lack of compliance with the original Arbitrator's order to the other party.

The landlord testified that he has issued a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) to the tenants for unpaid rent owing from June 2015. The tenant confirmed that the tenants have not paid any portion of their June 2015 rent. The parties agreed that the landlord has obtained an August 6, 2015 hearing date for his application to end this tenancy on the basis of the 10 Day Notice.

### Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Are the tenants entitled to a monetary award for losses in the value of their tenancy arising out of this tenancy? Should any other orders be issued against the landlord arising out of this application?

### Background and Evidence

This tenancy began as a one-year fixed term tenancy on February 1, 2015. On or about May 8, 2015, the landlord asked the tenants to convert the tenancy to a periodic tenancy. Both parties agreed to this change, although nothing was committed to writing to make this change official. Monthly rent for this basement suite is set at \$720.00, payable in advance on the first of each month, plus 20% of the utility costs for this two-unit rental property. The landlord continues to hold the tenants' \$360.00 security deposit paid on or about January 29, 2015.

The landlord's 1 Month Notice cited the following reasons for seeking an end to this tenancy for cause:

*Tenant is repeatedly late paying rent.*

*Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord.*

The landlord testified that the tenants were late in paying their rent in February, March and April 2015, and have still not paid their rent for June 2015. The tenant disputed the landlord's allegations, only conceding that the tenants have not paid their rent for June 2015, as they consider themselves owed this amount by the landlord.

The tenants' application for a monetary award of \$1,721.60 included the following items listed in their Monetary Order Worksheet entered into written evidence:

<b>Item</b>	<b>Amount</b>
Door Lock not Working – Stress (4 months @ \$250.00 per month = \$1,000.00)	\$1,000.00
Male Tenant's Loss of Work (10 hours @ \$18.16 per hour)	181.60
Fuel Expenses to File Application	40.00
<b>Total of Above Items</b>	<b>\$1,221.60</b>

### 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 resolve all issues in dispute arising out of the tenants' application and arising out of this tenancy at this time under the following final and binding terms:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on August 1, 2015, by which time the tenants agreed to have vacated the rental unit.
2. The landlord agreed that this tenancy has converted to a periodic tenancy rather than a fixed term tenancy as of approximately May 8, 2015.
3. The landlord agreed that he will not pursue any monetary claim for unpaid rent for June 2015, and that no rent is owing for that month for this tenancy.
4. The landlord agreed that the tenants are not required to pay rent for July 2015.
5. The tenants agreed to withdraw their claim for a monetary award and further agreed that they will not initiate any new claim for a monetary award, with the

exception of their security deposit, which remains subject to the requirements and provisions of the *Act*.

6. Both parties agreed that any remaining repair orders issued in the original Arbitrator's decision of April 20, 2015 will be resolved after this tenancy ends.
7. The parties agreed to withdraw their applications for dispute resolution currently scheduled to be heard at 9:00 a.m. on August 6, 2015.
8. Both parties agreed that this constituted a final and binding resolution of all issues currently in dispute in this tenancy and as outlined in the tenants' application for dispute resolution.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenants do not vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with an Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

As discussed at this hearing and to give effect to the settlement reached between the parties, the applications for dispute resolution scheduled to be heard at 9:00 a.m. on August 6, 2015 are withdrawn. I also order that the monthly rental terms as set out in the tenancy agreement between the parties be set aside for the months of June and July 2015, as per the terms of the parties' settlement agreement.

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: June 29, 2015

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Residential Tenancy Branch

