



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Landlord: OPR, MNR, FF  
                                 Tenant: CNR, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenant sought to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the landlord and the tenant.

Prior to the hearing the tenant submitted a written statement indicating that she had moved out of the rental unit. At the hearing the tenant clarified that she is staying elsewhere but her belongings were still in the rental unit.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 67, and 72 of the *Act*.

### Background and Evidence

The parties agree the tenancy began as a month to month tenancy for the monthly rent of \$1,500.00 due on the 1<sup>st</sup> to 5<sup>th</sup> of each month with a security deposit of \$750.00 paid.

The tenant submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on May 17, 2015 with an effective date of May 27, 2015 stating that the tenant had failed to pay \$1,500.00 in rent and \$550.00 for a security deposit that was due on May 1, 2015.

The parties agreed that the landlord served the tenant with the 10 Day Notice on May 20, 2015.

The tenant submits that the Notice should be canceled because since she has moved in the rental unit has had a rat problem and that an upper room has no heat. The tenant also noted that she had lost her job in May 2015.

The parties agree the tenant has not paid any rent for May, June or July 2015.

### Analysis

Section 26 of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*, the regulations or the tenancy agreement, unless the tenant has the right under this *Act* to deduct all or a portion of the rent.

Despite any issues the tenant may have had with the rental unit such as a rat problem or an area with no heat, Section 26 requires the tenant to pay rent. Had the tenant sought an order from the Residential Tenancy Branch to have the landlord complete repairs she may have also been entitled to a rent reduction until repairs had been completed, but the tenant did not do so.

As such, I find the tenant had no authority under the *Act* to withhold any payment of rent.

Section 46 of the *Act* states a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy on a date that is not earlier than 10 days after the date the tenant receives the notice. A notice under this section must comply with Section 52 of the *Act*.

As the tenant has provided no legal authority to withhold any payment of rent I find the landlord is entitled to end the tenancy pursuant to Section 46 of the *Act*. I find the 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on May 17, 2015 is compliant with all requirements under Section 46 and 52 of the *Act* and is therefore valid and enforceable.

### Conclusion

Based on the above, I dismiss the tenant's Application for Dispute Resolution in its entirety.

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$4,550.00** comprised of \$4,500.00 rent owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: July 09, 2015

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Residential Tenancy Branch

