



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNR; CNC; ERP; MNDC; MNR; MNSD; OLC

### **Introduction**

This is the Tenant's application to cancel a Notice to End Tenancy for Unpaid Rent and a Notice to End Tenancy for Cause; for an Order that the Landlord make emergency repairs to the rental unit; for compensation for damage or loss under the Act, regulation or tenancy agreement; for a monetary award for the Tenant's cost of making emergency repairs to the rental unit; for return of the security deposit; and an Order that the Landlord comply with the Act, regulation or tenancy agreement.

The Tenant and the Landlord's witness gave affirmed testimony at the Hearing.

The Tenant testified that he served the Landlord with the Notice of Hearing documents and copies of his documentary evidence, by leaving the documents at the Landlord's legal counsel's office. The Landlord's legal counsel acknowledged receipt of the documents on July 6, 2015.

The Landlord's witness testified that he left copies of the Landlord's documentary evidence at the rental unit, on a chair beside the door, on August 21, 2015. He stated that the documents were also e-mailed to the Tenant on August 21, 2015. The Tenant acknowledged receipt of the Landlord's documentary evidence on August 21, 2015.

The Landlord's witness also testified that he served the Tenant with the 10 Day Notice to End Tenancy for Unpaid Rent and the 1 Month Notice to End Tenancy for Cause, by handing the documents to the Tenant at the rental unit on June 27, 2015.

### **Preliminary Matter**

The Residential Tenancy Rules of Procedure, Rule 2.3, states that for disputes to be combined on an application they must be related. The Tenant confirmed that the most pressing matter was to cancel the Notices to End Tenancy. I find that that the Tenant's requests for other Orders are not sufficiently related to the main issue, which is to cancel the Notices. Therefore, I explained to the parties that we would deal first with the Tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent issued June 27, 2015 (the "Notice").

### **Issues to be Decided**

- Is the Notice a valid notice to end the tenancy?

### **Background and Evidence**

Both parties provided a copy of the tenancy agreement in evidence. This tenancy began on December 1, 2014. The tenancy agreement is a fixed term lease, ending August 31, 2015. At the end of the fixed term, the Tenant must vacate the rental unit.

Monthly rent is \$1,250.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$625.00 on December 1, 2014.

The Landlord's legal counsel submitted that the Tenant did not pay rent when it was due on June 1, 2015, and that he has not paid rent for July or August, 2015.

The Tenant acknowledged that he had not paid rent, but stated that he did not pay rent because:

- The rental property is infested by rats;
- The rental property is not sufficiently maintained by the Landlord;
- The rental unit is an illegal suite;
- The tenancy agreement has been frustrated;
- The electrical system is unsafe; and
- A municipal officer advised him not to pay any more rent.

The Tenant stated that he has not paid any money out of his own pocket for emergency repairs to the rental property. He stated that he does not have an Order from the Residential Tenancy Branch that he may deduct any or all of his rent. The Tenant acknowledged that he has no agreement with the Landlord that he doesn't have to pay rent.

The Landlord's legal counsel asked for an Order of Possession, to be effective as soon as possible.

### **Analysis**

Section 26(1) of the Act provides that a tenant must pay rent when it is due, whether or not the Landlord complies with the Act, regulations or tenancy agreement, unless the Tenant has a right under the Act to deduct all or a portion of the rent.

In this case, I find that the Tenant had no right under the Act to deduct rent. Therefore, I find that the Notice is a valid notice to end the tenancy, and the Tenant's application to cancel it is dismissed.

The Tenant's remedy would have been to pay his rent when it was due and to file an application for dispute resolution seeking compensation or repair orders or an order that the Tenant could deduct all or a portion of the rent.

Section 55 of the Act provides that I must grant an Order of Possession if the Notice is upheld and the Landlord makes an oral request at the Hearing. I accept that the Tenant was served with the Notice on June 27, 2015. Therefore, I find that the tenancy ended on July 7, 2015, and that the Tenant is overholding. I hereby provide the Landlord with an Order of Possession effective 2 days after service of the Order upon the Tenant.

The tenancy has ended, and therefore the Tenant's application for an Order that the Landlord comply with the Act; make emergency repairs; and to cancel a Notice to End Tenancy for Cause is dismissed. The Tenant testified that he has not paid any money for emergency repairs and therefore his application for compensation for the cost of emergency repairs is dismissed.

The Tenant's application for compensation for damage or loss and for return of the security deposit is dismissed with leave to reapply.

### **Conclusion**

The Tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent is **dismissed. I find that the tenancy ended on July 7, 2015.** The remainder of the Tenant's application is also **dismissed, except for** the Tenant's application for compensation for damage or loss and for return of the security deposit, which is **dismissed with leave to reapply.**

I hereby provide the Landlord with an Order of Possession **effective 2 days after service of the Order upon the Tenant.** This Order may be filed in the Supreme Court of British Columbia and 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: September 01, 2015

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Residential Tenancy Branch

