



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR CNR MNR MNSD MNDC OLC PSF RPP RR FF

### Introduction

This hearing dealt with applications by the landlord and the tenant. The landlord applied for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant applied to cancel a notice to end tenancy, as well as for monetary compensation, orders for repairs and several other orders. The landlord and the tenant participated in the teleconference hearing

### Preliminary Issue – Tenant's Application

The landlord stated that they were never served with the tenant's application. The tenant stated that he personally served the male landlord with his application on September 12, 2015. The tenant had no other evidence to establish that he did serve the landlord with his application.

The tenant confirmed that he received the landlord's application. The tenant also stated that he was personally served with the notice to end tenancy for unpaid rent. He was not sure what day he received it but he thought it was September 4, 2015.

The landlord stated that they personally served the tenant with the notice to end tenancy on September 2, 2015. The notice is dated September 2, 2015, with an effective date of September 15, 2015. The landlord also submitted in their evidence a Proof of Service of Notice to End Tenancy dated September 2, 2015 and signed by the tenant to confirm that he had been personally served with the notice on that date.

I found that the landlord's testimony was more reliable and supportable than that of the tenant. I accepted the landlord's statement that they were never served with the tenant's application, and I dismissed the tenant's application.

In the hearing the landlord orally requested an order of possession. When a tenant's application to cancel a notice to end tenancy is dismissed, and the landlord orally

requests an order of possession in the hearing, I must grant the order of possession. Accordingly, I grant the landlord an order of possession effective two days after service.

As the landlord was unaware that the tenant had filed an application and they therefore believed they had to file their own application to receive an order of possession, I find that the landlord is entitled to recovery of the \$50.00 filing fee for the cost of their application.

### Conclusion

The tenant's application to cancel the notice to end tenancy is dismissed. As the tenancy ended on September 15, 2015, the effective date of the notice, the application to cancel the notice is dismissed without leave to reapply. Additionally the tenant's applications for other orders, aside from any monetary claim, are dismissed without leave to reapply. The tenant is at liberty to reapply for monetary compensation.

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the landlord an order under section 67 for the balance due of \$50.00. This order may be filed in the Small Claims Court 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: November 10, 2015

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Residential Tenancy Branch

