



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes                      OPR, MNR, MDSD, CNR, ERP, OLC, RP, RR & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$3900 for unpaid rent
- c. An order to retain the security deposit.
- d. An order to recover the cost of the filing fee

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated September 29, 2015
- b. An order that the landlord provide services or facilities required by law
- c. An order that the landlord comply with the Act, regulation and/or the tenancy agreement
- d. An order that the landlord make repairs and emergency repairs
- e. An order allowing for the reduction of rent.
- f. An order that the tenant recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on September 29, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was filed by the landlord was personally served on the tenant on October 17, 2015. The tenant testified that he served the landlord with a copy of his Application for Dispute Resolution by ordinary mail. The landlord denied receiving it. I determined the tenant failed to prove sufficient service. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated September 29, 2015?
- b. Whether the tenant is entitled to an order that the landlord provide services or facilities required by law
- c. Whether the tenant is entitled to an order that the landlord comply with the Act, regulation and/or the tenancy agreement
- d. Whether the tenant is entitled to an order that the landlord make repairs and emergency repairs
- e. Whether the tenant is entitled to an order allowing for the reduction of rent.
- f. Whether the tenant is entitled to an order that the landlord comply with the Act, regulation and/or the tenancy agreement?
- g. Whether the tenant is entitled to recover the cost of the filing fee?
- h. Whether the landlord is entitled to an Order for Possession?
- i. Whether the landlord is entitled to A Monetary Order and if so how much?
- j. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- k. Whether the landlord is entitled to recover the cost of the filing fee?

#### Background and Evidence

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on June 1, 2015, end on May 31, 2016 and become month to month after that. The rent is \$1300 per month payable on the first day of each month. The tenant paid a security deposit of \$650 at the start of the tenancy. The tenant(s) failed to pay the rent for the months of September (\$1300 is owed), October (\$1300 is owed), November (\$1300 is owed) and December (\$650 is owed to December 15, 2015) and the sum of \$4550 remains owing. The tenant(s) continue to live in the rental unit. .

#### Analysis – Tenant's Application

The tenant testified he served the landlord by regular mail. The landlord denied receiving a copy of the Application for Dispute Resolution. I determined the tenant failed to prove service and as a result I dismissed the tenant's application. Further, there is no basis for setting aside the 10 day Notice to End Tenancy. The Notice is valid. The tenant admitted owing the rent.

#### Analysis – Landlord's Application - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant's Application to set aside the Notice to End Tenancy has been dismissed. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession. The parties agreed that I should set December 15, 2015 as the effective date for the Order for Possession.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of September (\$1300 is owed), October (\$1300 is owed), November (\$1300 is owed) and December (\$650 is owed to December 15, 2015) and the sum of \$4550 remains owing. I granted the landlord a monetary order in the sum of \$4550 plus the sum of \$50 in respect of the filing fee for a total of \$4600.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$650. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$3950.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

Conclusion:

I ordered that the tenant's application be dismissed. I further ordered that the landlord shall retain the security deposit of \$650. I further ordered that the tenant pay the landlord the sum of \$3950 and I granted an Order for Possession effective December 15, 2015.

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: December 02, 2015

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Residential Tenancy Branch

