



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Tim Huzar and Hog's Breath Coffee Co. Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

CNR OPR MNR

### Introduction

This hearing convened pursuant to applications by the tenant and the landlord. The tenant applied to cancel a notice to end tenancy for unpaid rent. The landlord applied for an order of possession and monetary compensation for unpaid rent. The tenant and the landlord participated in the teleconference hearing.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the landlord's application in the conclusion of my decision.

### Preliminary Issue – Request for Adjournment

The tenant requested an adjournment for the following reasons: (1) she did not receive the landlord's package until December 24, 2015, and the local post office was closed on December 29 and 30, 2015, so the tenant did not have much time to prepare her response to the landlord's application; (2) she wished to have her advocate present; and (3) she wished to have additional witnesses present, as their testimony might change the outcome of the hearing. I repeated these reasons back to the tenant and she confirmed that these were her reasons for requesting the adjournment. The landlord stated that they were opposing the adjournment request.

The tenant confirmed that she received the notice to end tenancy for unpaid rent on December 8, 2015, and she was aware that the landlord sought to end her tenancy for unpaid rent. On December 24, 2015 the tenant faxed to the Branch her response to the landlord's application. The tenant also submitted a registered mail receipt showing that she had mailed evidence to the landlord on December 29, 2015. I therefore found that the tenant had sufficient time to respond to the issue of unpaid rent.

The tenant stated that she believed she did not owe rent because the landlord hired her to clean another unit in lieu of rent. I determined that the tenant was fully capable of articulating her response to the landlord's claim without the presence of an advocate. I also found, during the

hearing, that the tenant provided sufficient evidence to support her position, and it was not necessary for me to hear from any of her witnesses.

For these reasons, I denied the tenant's request for an adjournment and proceeded with the hearing.

Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

#### Issue(s) to be Decided

Is the notice to end tenancy for unpaid rent dated December 7, 2015 valid?

#### Background and Evidence

The tenancy began on March 1, 2013, with monthly rent of \$475.00 due in advance on the first day of each month.

On December 7, 2015 the landlord served the tenant with a notice to end tenancy for unpaid rent. The parties agreed that the landlord had hired the tenant in October 2015 to do some cleaning for the landlord. The parties also agreed that the tenant did not pay any rent for November 2015, December 2015 or January 2016.

The landlord stated that they asked the tenant to do some cleaning, but the cleaning agreement was separate from the issue of rent. The landlord stated that the tenant submitted an invoice to the landlord but did not provide receipts. The landlord stated that they asked the tenant to provide dump or gas receipts but she did not, so on November 13, 2015 the landlord told the tenant to stop working.

The tenant stated that the landlord asked if she could do some cleaning, and she told them she would charge \$100.00 per load. The tenant first stated that the landlord agreed that she would work in lieu of rent. Later in the hearing the tenant stated that the landlord said or the tenant understood that she could possibly take the payment off rent. The tenant stated that on October 23, 2015 she gave the landlord an invoice for \$400.00, and she did not pay the balance of \$75.00 for outstanding rent for November 2015 or any rent at the beginning of December 2015 because she was still working for the landlord at that time and knew she would work it off. The tenant stated that she gave the landlord another invoice, for \$700.00, on December 7, 2015 or so by leaving it on the landlord's truck windshield, but then she discovered it in the snow and on December 16, 2015 she gave the landlord another copy of the \$700.00 invoice.

I asked the tenant why, if the \$1,100.00 in her invoices was put toward rent, she did not pay the landlord the balance of \$325.00 for January 2015. The tenant replied that she had incurred travel and mail expenses associated with the dispute resolution process.

### Analysis

I find that the notice to end tenancy for unpaid rent dated December 7, 2015 is valid.

Even if I accepted the tenant's evidence that she had an agreement to work for the landlord in lieu of rent, she did not pay the balance of rent for January 2015. Additionally, I found the tenant's testimony to be contradictory and unsupported, and the timing of events to be suspect. For example, the landlord stated that they posted the notice to end tenancy on December 7, 2015 and saw it taken down later in the day, but the tenant stated that she was not home until 10:30 p.m. that day and she did not get the notice until December 8, 2015. The tenant then stated that she first left her invoice for \$1,100.00 on the landlord's windshield on December 7, 2015, and did not re-serve it until December 16, 2015. The tenant clearly knew, by December 8, 2015 at the latest, that the landlord had an issue with unpaid rent, and she applied to dispute the notice on December 11, 2015. It is not logical that the tenant would then not serve or re-serve the landlord with her invoice until December 16, 2015.

In the hearing the landlord requested an order of possession effective as soon as possible.

### Conclusion

The tenant's application is dismissed.

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.

The monetary portion of the landlord's application is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: January 14, 2016

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Residential Tenancy Branch

