



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNR OPR

### **Introduction:**

This was an application by the tenant to cancel a Notice to End the Tenancy for non-payment of rent dated January 2, 2016 to be effective January 12, 2016. Only the landlord attended the hearing and confirmed receipt of the Application. He said the tenant vacated on February 1, 2016.

**Issues:** Is the tenant entitled to any relief?

### **Background and Evidence:**

Only the landlord attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The tenancy began on May 11, 2015. The rent is \$590 and the tenant has not paid rent for five months. In evidence is a rental ledger, the tenancy agreement and emails from the tenant to the landlord giving reasons why he is having problems making rent payments.

The landlord said he has made a Direct Request to the Residential Tenancy Branch for an Order of Possession and a monetary order for rental arrears. He requested that I check the progress of his Request. I found the Decision on his Request was made on February 2, 2016 and he was granted an Order of Possession and a monetary order for rental arrears.

### **Analysis:**

The Notice to End a Residential Tenancy is based on non-payment of rent. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes that rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from the rent. I find the tenant provided no valid reasons for his non payment of rent. I find the fact that he is having problems with his financing does not negate his obligation to pay his rent on time pursuant to section 26 of the Act. I therefore dismiss his application to cancel the Notice to End the Tenancy.

Section 55(4) provides that the arbitrator must grant an order of possession of the rental unit where an arbitrator has dismissed the tenant's application pursuant to section 46 and has upheld the Notice. The arbitrator may also grant a monetary order for outstanding rent. However, I find the landlord has already been granted an Order of Possession and a monetary order for unpaid rent pursuant to his Direct Request on February 2, 2016 so this is unnecessary.

**Conclusion:**

I dismiss the tenant's application without recovery of the filing fee.

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: February 11, 2016

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Residential Tenancy Branch

