



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      DRI, CNR, OLC, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order regarding a disputed additional rent increase, pursuant to section 43;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 4, 2016 ("10 Day Notice"), pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlord's agent, SM ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that had authority to speak on behalf of the landlord named in this application at this hearing. The landlord also provided a written statement indicating that his agent had permission to appear on his behalf at this hearing. This hearing lasted approximately 65 minutes in order to allow both parties to fully engage in settlement negotiations.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and the tenant confirmed receipt of the landlord's written evidence package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's Application and the tenant was duly served with the landlord's written evidence.

The tenant confirmed receipt of the landlord's 10 Day Notice. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 10 Day Notice.

### Issues to be Decided

Is the tenant entitled to an order regarding a disputed additional rent increase?

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement?

Is the tenant entitled to recover the filing fee for this Application from the landlord?

### Background and Evidence

Both parties agreed to the following facts. This tenancy began on August 1, 2014. Monthly rent in the amount of \$750.00 is payable on the first day of each month. A security deposit of \$400.00 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit.

The landlord issued the 10 Day Notice, with an effective move-out date of February 15, 2016 for unpaid rent of \$660.00 due on February 1, 2016. Both parties agreed that rent of \$300.00 was outstanding for December 2015, \$130.00 was outstanding for February 2016, and \$750.00 was outstanding for March 2016. The tenant seeks to cancel the 10 Day Notice and to recover the \$100.00 filing fee paid for her Application.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, with the exception of the filing fee:

1. The tenant agreed to pay the landlord \$1,180.00 by 12:00 p.m. on March 18, 2016;
  - a. The landlord agreed that the above payment satisfies all outstanding rent and utilities owed by the tenant for this tenancy until March 31, 2016;

2. Both parties agreed that this tenancy will end by 1:00 p.m. on March 31, 2016, by which time the tenant and any other occupants will have vacated the rental unit, in the event that the tenant abides by condition #1 of the above settlement. In that event, the landlord's 10 Day Notice, dated February 4, 2016, is cancelled and of no force or effect;
3. Both parties agreed that this tenancy will end pursuant to a two (2) day Order of Possession, if the tenant does not abide by condition #1 of the above settlement;
4. The tenant agreed to remove her vehicle from the rental property at the time that she vacates the rental unit;
5. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenant's Application at this hearing, with the exception of the filing fee.

These particulars comprise the full and final settlement of all aspects of this dispute, with the exception of the filing fee, for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute, with the exception of the filing fee.

The tenant stated that she wanted me to determine whether she was entitled to recover the \$100.00 filing fee paid for her Application, as the parties could not agree on this term. The filing fee is a discretionary award under section 72 of the Act. I was not required to issue a decision on the merits of the tenant's Application after examining all of the verbal testimony and written evidence, as both parties came to a settlement. Therefore, I find that the tenant is not entitled to recover the \$100.00 filing fee and I dismiss this portion of her Application.

### Conclusion

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached two (2) day Order of Possession to be used by the landlord **only** if the tenant does not abide by conditions #1 or #2 of the above settlement. The landlord is provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant does not abide by conditions #1 or #2 of the above settlement. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In the event that the tenant abides by condition #1 of the above settlement, I find that the landlord's 10 Day Notice, dated February 4, 2016, is cancelled and of no force or effect. In that event, this tenancy continues only until 1:00 p.m. on March 31, 2016.

The tenant's Application to recover the \$100.00 filing fee is dismissed without 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 *Residential Tenancy Act*.

Dated: March 17, 2016

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Residential Tenancy Branch

