



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 353806 B.C. LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR

### Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent, dated March 7, 2016 ("10 Day Notice"), pursuant to section 46.

The landlord's agent, RL ("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 he is the building manager for this rental unit and that he had authority to represent the landlord company named in this application as an agent at this hearing. This hearing lasted approximately 24 minutes in order to allow both parties to fully negotiate a settlement of this application.

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

The tenant stated that he did not receive the landlord's written evidence package. The landlord could not confirm the date or method of service of the written evidence package. However, the tenant said that he already had copies or was aware of the written tenancy agreement, the 10 Day Notice, a handwritten note he sent to the landlord and a cheque dated March 1, 2016. As this matter settled, I was not required to consider the landlord's written evidence.

The tenant confirmed receipt of the landlord's 10 Day Notice, which has an effective move-out date of March 17, 2016. 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

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession for unpaid rent?

### Background and Evidence

Both parties agreed to the following facts. This month-to-month tenancy began on March 1, 2016. Monthly rent in the amount of \$950.00 is payable on the first day of each month and a security deposit of \$475.00 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit.

### 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:

1. The tenant agreed to pay the landlord \$2,850.00 total for rent for the period from March 1 to May 31, 2016 according to the following schedule:
  - a. \$1,300.00 by April 29, 2016;
  - b. \$1,550.00 by May 13, 2016;
2. Both parties agreed that this tenancy will end pursuant to a two (2) day Order of Possession, if the tenant defaults on any rent payments under conditions #1(a) or #1(b) of the above settlement;
3. Both parties agreed that this tenancy will continue under the terms of the written tenancy agreement, in the event that the tenant abides by conditions #1(a) AND #1(b) of the above settlement. In that event, the landlord's 10 Day Notice, dated March 7, 2016, is cancelled and of no force or effect; and
4. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenant's application at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute 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.

### 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(a) or #1(b) of the above settlement. This two day **Order of Possession expires on May 31, 2016** and it cannot be served upon the tenant after **May 31, 2016**. 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(a) or #1(b) 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 conditions #1(a) AND #1(b) of the above settlement, I find that the landlord's 10 Day Notice, dated March 7, 2016, is cancelled and of no force or effect. In that event, this tenancy continues under the terms of the written tenancy agreement until it is ended in accordance with the *Act*.

In order to implement the above settlement between the parties, I issue a monetary Order in the landlord's favour in the amount of \$1,900.00, the amount currently owing for rent from March to April 2016. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not pay the landlord \$1,900.00 as per the above agreement. The landlord is provided with this Order in the above terms and the tenant must be served with a copy of this Order as soon as possible after the tenant does not pay the landlord \$1,900.00 as per the above agreement. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I notified the landlord that as May 2016 rent is not yet due under the tenancy agreement as of the date of this hearing, the landlord can apply for a monetary order for any rent due for May 2016. Both parties agreed at the hearing that rent of \$950.00 would be due for May 2016.

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: April 25, 2016

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Residential Tenancy Branch