



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OPR, MNR, MNDC, FF

### Introduction

The Application for Dispute Resolution filed by the Tenants seeks an order to cancel the 10 day Notice to End Tenancy dated May 20, 2016

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 \$20,000 for damages for the failure to vacate the rental unit.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondents although duly served. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on May 20, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing and the Amended Application for Dispute Resolution filed by the landlord were sufficiently served on the Tenants on May 29, 2016 and June 1, 2016 respectively. 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 May 20, 2016?
- b. Whether the landlord is entitled to an Order for Possession?
- c. Whether the landlord is entitled to A Monetary Order and if so how much?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The property has been sold. The parties originally entered into an oral short term tenancy agreement in which the tenants were to vacate on May 17, 2016. The tenants failed to vacate at that time stating that they were under the impression they would be able to rent from the new owners. On May 30, 2016 the parties entered into an agreement in writing which included the following:

- The parties signed a 2 month fixed term tenancy agreement that provided that the tenancy would start of June 1, 2016 and end on July 31, 2016.
- The rent was set at \$1000 per month and the tenants agreed to pay \$2000 on May 30, 2016.
- The tenants acknowledged the property has been sold and they agreed that they would vacate and remove all personal belongings by July 31, 2016.
- The landlord withdrew the 10 day Notice to End Tenancy dated May 20, 2016.

### Tenants' Application:

The tenants failed to attend the hearing. As a result I dismissed the tenants' application without leave to re-apply.

### Landlord's Application: Order of Possession:

As a result of the settlement I granted an Order for Possession effective July 31, 2016.

The tenants 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:

The Application for Dispute Resolution filed by the Landlord seeks a monetary order in the sum of \$20,000. The basis of this claim was to recover damages suffered by the landlord as a result of the tenants failing to give vacant possession on May 17, 2016. The parties subsequently entered into a settlement agreement but it does not deal with this issue. The landlord stated that he wished to retain the right to claim against the tenant if they failed to vacate at the end of July. I determined that it was appropriate to dismiss the landlord's claim for a monetary order with liberty to re-apply. I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period. I dismissed the landlord's claim for the cost of the filing fee as it was not part of their settlement.

### Conclusion:

I dismissed the tenants' application. As a result of the settlement I granted an Order for Possession effective July 31, 2016. I dismissed the landlord's claim for a monetary order with leave to re-apply.

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: June 23, 2016

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Residential Tenancy Branch