



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

Tenant: CNR ERP LAT  
Landlord: OPR, MNR, FFL

### **Introduction**

This hearing was convened in response to cross-applications by the tenant and landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders. Both parties attended the conference call hearing.

The tenant orally amended their claim seeking solely that the landlord's access be made conditional before they vacate in less than one week on January 15, 2018. The landlord sought an order of possession for unpaid rent and a monetary Order for the unpaid rent and to recover their filing fee. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

### **Issue(s) to be Decided**

Is the notice to end tenancy valid?  
Is the landlord entitled to an Order of Possession?  
Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The parties agreed the tenancy began October 2016. Rent in the amount of \$1500.00 is payable in advance on the first day of each month. The parties agreed that the rent for October 2016 was paid. Thereafter the parties' testimony in respect to rent and payment of rent greatly contrasted. The landlord testified that tenant failed to pay rent from November 2016 onward, other than one payment of \$3500.00 in June 2017. The tenant agreed with the landlord's testimony they paid \$3500.00. In their *document* evidence the landlord stated that the tenant paid \$800.00 in January 2017 and no more rent was paid thereafter. The tenant testified that they were not sure as to the payment

of rent as they thought it was being paid by "welfare" and "Options", a rent subsidy agency. The tenant claims they have asked "welfare" for an accounting but have not received it. They also claim that "Options" does not keep accounting information so as to provide the tenant with their accounting of rent paid. The landlord claims that "welfare" only paid the rent for November 2016 but had clawed it back after it was deposited, which the tenant claims is not possible. On October 17, 2017 the landlord served the tenant with a 10 Day Notice to end for Unpaid rent stating that as of October 1, 2017 the tenant owed \$14,200.00 in unpaid rent.

None the less, the parties mutually confirmed that the tenant has secured alternate accommodations and is vacating on January 15, 2018. The parties arrived at agreement that the tenancy will end January 15, 2018 and that the landlord will receive an Order of Possession for the agreed date.

At the outset of the tenancy the tenant testified that the landlord had intruded on the tenant 3 weeks before without notice, in which incident they kicked over one of the tenant's receptacles. Upon police attendance the landlord left. The tenant testified that a repeat of the behaviour has not occurred. The tenant sought for the landlord's access to be made conditional until they vacate. The landlord did not effectively testify as to the tenant's claim.

### **Analysis**

Based on the testimony of both parties I find that they are in agreement that the tenancy is ending January 15, 2018. As the tenant is no longer disputing the landlord's Notice to End in this matter, I dismiss the tenant's application in this regard, and pursuant to Section 55(1) of the Act I grant the landlord an **Order of Possession** effective on the agreed date of January 15, 2017.

In respect to the tenant's claim in this matter and the undisputed evidence I find that it is appropriate that the landlord's right of access over the next week be made clear that it must only be in accordance with the Act.

In respect to the landlord's monetary claim, I find that the landlord's document evidence and their testimony regarding unpaid rent are at odds. However, in the absence of proof from the tenant that they have paid all of the rent owed under the tenancy agreement I find that the landlord is owed unpaid rent as follows in accordance with the oral evidence of both parties and the document submissions of the landlord. The landlord is further entitled to recover their filing fee.

### *Calculation for Monetary Order*

Rent- January 2017 [tenant paid \$800.00]	\$700.00
Rent- February to June 2017 <i>minus</i> tenant's payment in June 2017 of \$3500.00 [(\$1500.00 x 5) - \$3500.00]	\$4000.00
Rent- July to December 2017 [ \$1500.00 x 6 ]	\$9000.00
Rent- January 01-15, 2017	\$750.00
Filing fee	\$100.00
<b>Total Monetary Award</b>	<b>\$14550.00</b>

### **Conclusion**

**I Order** the landlord to **strictly comply** with **Section 29** of the Act in respect to their access and right of entry of the unit. If the landlord does not comply with this Order the tenant is at liberty to seek compensation.

The landlord is given an **Order of Possession effective January 15, 2018**. The tenant must be served with this 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.

**I grant** the landlord an Order under Section 67 of the Act for the amount of **\$14,550.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding.**

*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: January 10, 2018

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Residential Tenancy Branch