



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, LRE, MNDCT, OLC, FFL, MNRL, OPR, AS, CNR, ERP, LAT

### Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlords requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67.and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant requested:

- cancellation of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlords’ 1 Month Notice to End Tenancy for Cause (“ 1 Month Notice”), pursuant to section 47;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order allowing the tenant to assign or sublet because the landlord’s permission has been unreasonably withheld pursuant to section 65;

- authorization to change the locks to the rental unit pursuant to section 70;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70;

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other.

#### Issue(s) to be Decided

Is either party entitled to any of the above orders as requested?

#### Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here.

The landlord gave the following testimony. The tenancy began on November 1, 2017 with rent due on the first of each month in the amount of \$1900.00 plus 2/3 of the utilities. The landlord received and still holds a \$1000.00 deposit. The landlord testified that the tenants' behaviour is very strange and aggressive. The landlord testified that he issued a One Month Notice to End Tenancy for Cause on December 22, 2017 because of his violent mood swings. The landlord testified that the tenant did not pay the rent due on January 1, 2018. The landlord testified that the tenant was served with a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on January 3, 2018. The tenant has not paid rent for February or March either. The landlord testified that the tenant owes money for utilities but isn't sure how much since the basement was empty and the tenant was the only person in the house. The landlord requests an order of possession and a monetary order for the unpaid rent and recovery of the filing fee. The landlord testified that he never restricted the tenants' ability to have roommates or contact "welfare" to cut off his funding.

The tenant gave the following testimony. The tenant testified that he has not paid rent for the three months as claimed but states it was as a result of the landlord contacting "welfare" and having his funding cut-off. The tenant testified that the landlords'

aggressive behaviour also caused him to lose two roommates. The tenant seeks the roommates' share of the rent of \$1400.00 per month x 2 months = \$2800.00 because the landlords aggressive behaviour scared them off. The tenant also seeks \$800.00 for utilities from the landlord. The tenant testified that as a result of the landlords' actions he is "basically stuck here with no money" and is unable to move. The tenant testified that the One Month Notice to End Tenancy for Cause is "ridiculous" and is "false".

### Analysis

Firstly, I address the landlords claim and my findings as follows.

I accept the landlord's testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and although the tenant did apply for dispute resolution to dispute the notice the tenant has not provided sufficient evidence to support his allegations that the landlord has interfered with or restricted his ability to have tenants or that the landlord was the cause of him losing his funding from "welfare". Based on the above facts I find that the landlord is entitled to an order of possession pursuant to Section 55 of the Act. The tenant must be served with the 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.

As for the monetary order, I find that the landlord has established a claim for \$5700.00 in unpaid rent. The landlord is also entitled to recovery of the \$100.00 filing fee. Although the landlord mentioned that he was seeking utility costs, he stated on several occasions; "I'm not sure how much it is". The landlord did not provide clear and precise documentation to support an amount sought, based on the insufficient and unclear evidence, I dismiss the landlords claim for utilities cost. Although the landlord has not applied for it, I hereby apply the offsetting provision under section 72 of the Act and I order that the landlord retain the \$1000.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$4800.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

As I have found that the tenancy is terminated based on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, I need not consider the merits of the One Month Notice to End Tenancy for Cause.

I address the tenants' application as follows. Firstly the tenant is seeking his roommates' share of the rent of \$1400.00 per month for two months from the landlord.

The tenant submits because of the landlords' aggressive behaviour he "scared off my roommates". The tenant has failed to provide sufficient evidence of that allegation. Based on the insufficient evidence and on a balance of probabilities; I dismiss this portion of the tenants claim.

The tenant also seeks \$800.00 from the landlord for utility costs. The tenant submits that the utilities were in his name that he was on an equal pay plan and that when the landlord put the utilities in his name the tenant was left with an \$800.00 bill. The tenant submits that the reason the home was empty because of the landlord and he shouldn't have to pay the utilities. The tenant acknowledged and conceded that this bill was for his own personal consumption. Based on the tenants own testimony that the amount of utility cost was due to his own use, he has not provided sufficient evidence to show that the landlord is responsible for this cost, accordingly I dismiss this portion of the tenants application.

As I have found that the tenancy is terminated, I need not address the remainder of the tenants claim as they relate to items only if the tenancy was to continue, accordingly, I dismiss the remainder of the tenants' application

#### Conclusion

The landlord is granted an order of possession and a monetary order of \$4800.00. The tenants' application is dismissed in its entirety 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 02, 2018

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Residential Tenancy Branch