



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WAN MAN CHAN  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      LANDLORD: OPR, MNR, FF  
TENANT: CNC, CNR, ERP, FF

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed seeking an Order of Possession, a monetary order for unpaid rent and to recover the filing fee for this proceeding.

The Tenants filed to obtain an order to cancel the Notices to End Tenancy and if successful; for the Landlord to do emergency repairs and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlord to the Tenants were done by registered mail on June 1, 2018, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenants to the Landlord were done by regular mail on or about May 27, 2018. Service by regular mail is not in accordance with section 89 of the Act. The Landlord said she did not receive the Tenants' hearing package. Consequently I do not accept the Tenants' service of documents.

### Issues to be Decided

Landlord:

1. Are the Landlords entitled to an Order of Possession?
2. Is there unpaid rent and if so how much?
3. Are the Landlords entitled to compensation for unpaid rent and if so how much?

Tenant:

1. Are the Tenants entitled to an order to cancel the Notices to End Tenancy?
2. Are there emergency repairs required to the unit?

### Background and Evidence

This tenancy started on April 15, 2017 as a fixed term tenancy with an expiry date of April 14, 2018. Rent is \$1,600.00 per month payable in advance of the 15<sup>th</sup> day of each month. The Tenants paid a security deposit of \$800.00 on April 1, 2017.

During the hearing Tenant D.L. said that Tenant I.C.V. moved out of the unit in November 2017 and as the written tenancy agreement ended April 15, 2018, Tenant D.L. is taking full responsibility for the Landlord's application. Tenant I.C.V. said the Landlord knew and agreed to her moving out of the unit in November 2017.

The Landlord said that the Tenant did not pay rent of \$2,673.97 of rent for April and May 2018, when it was due and as a result, on May 19, 2018, she posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated May 19, 2018 on the door of the Tenant's rental unit. The Landlord continued to say that the Tenant has not paid the June or July 2018 rent of \$1,600.00 for each month as well. The Landlord said the total unpaid rent is for May and April of \$2,673.97 and for June and July 2018 in the amount of \$3,200.00.

The Tenant said there is unpaid rent from April to July 2018, but he has been having a very difficult time lately and he thought that he had worked out a repayment schedule with the Landlord. The Tenant said the Landlord did not honour the repayment agreement. The Tenant continued to say instead of the repayment schedule the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent. The Tenant said the repayment agreement was verbal and by text message and he did not submit it into evidence. The Tenant continued to say he has tried his best to come to an agreement with the Landlord but the Landlord has ignored him. The Tenant said this is not fair if he is evicted.

The Landlord said there was no repayment scheduled agreed to and the Tenant only made one payment of \$66.03. The Landlord requested an Order of Possession effective 2 days after service of the Order on the Tenant.

The Tenant requested more time for him to move out of the rental unit.

The Landlord said it has been too long enough and she wants to end the tenancy as soon as possible.

### Analysis

Section 26 (1) of the Act says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent

I find that the Tenant has not paid the overdue rent and the Tenant does not have the right to withhold a part or all of the unpaid rent. Consequently, I dismiss the Tenants application as he agrees there is unpaid rent from April to July 2018.

I accept the Landlords' testimony and evidence that there is unpaid rent in the amount of \$2,673.97 for April and May, 2018 and \$1,600.00 for each month of June and July 2018 in the amount of \$3,200.00. The Tenant is responsible for the full month of July as the rent was due on July 15, 2018 and rent is collected on the due date for the full month. Consequently, I find for the Landlord and award the Landlord a monetary claim for unpaid rent of \$5,873.97.

As well since the Landlord has been successful in this matter I also order the Landlord to recover the filing fee of \$100.00 for this proceeding from the Tenant. A Monetary Order in the amount of \$5,973.97 is awarded to the Landlord.

Further pursuant to section 55 of the Act the Landlord is entitled to an Order of Possession as the Tenant's application to dispute the 10 Day Notice to End Tenancy for Unpaid rent has been dismissed. I grant the Landlord an Order of Possession with an effective vacancy date 2 days after the service of the Order on the Tenant.

Further as the tenancy is ending I dismiss the Tenant's request for emergency repairs and I order the Tenant to bear the cost of the filing fee or \$100.00 which he has already paid.

### Conclusion

An Order of Possession effective 2 days after service on the Tenant and a Monetary Order in the amount of \$5,973.97 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Tenants' application is dismissed without leave to reapply and the Tenants are ordered to bear the cost of \$100.00 for their application which they have already paid.

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: July 18, 2018

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Residential Tenancy Branch