



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR RR

### Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) pursuant to section 46 of the *Act*; and
- an order to reduce the rent for repairs, services or facilities agreed upon by not provided pursuant to section 65 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

As both parties were present, service of documents was confirmed. The landlord's agent G.C. attended the hearing on behalf of the landlord. The landlord's agent confirmed receipt of the tenant's Notice of Dispute Resolution Proceeding and evidentiary materials. The landlord's agent stated that the landlord did not submit any evidentiary materials. Based on the undisputed testimonies of the parties, I find that the landlord was served with the tenant's application in accordance with section 89 of the *Act*.

As a procedural matter, I explained to both parties that section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the tenant's Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Further to this, I explained to both parties that the standard of proof in a dispute resolution hearing is on a balance of probabilities. Usually the onus to prove the case is on the person making the claim. However, in situations such as in the current matter, where a tenant has applied to cancel a landlord's Notice to End Tenancy, the onus to prove the reasons for ending the tenancy transfers to the landlord as they issued the Notice and are seeking to end the tenancy.

#### Preliminary Issue – Resolution of the Dispute

At the outset of the hearing, the tenant advised that the matters pertaining to her dispute with the landlord had been resolved. The tenant stated that there had been a miscommunication between her and the landlord regarding the tenant's payment for a replacement hot water tank as a reduction against the tenant's rent. The tenant stated that both aspects of her claim in this matter, specifically her request to cancel the 10 Day Notice to End Tenancy and her request to have her rent reduced to compensate her for having paid for the hot water replacement, had been resolved with the landlord. The landlord's agent confirmed that the issue regarding the rent payment had been resolved, the tenant has paid the correct amount of rent, and that no amount for rent is owed by the tenant. Therefore, I confirmed with both parties that the landlord is not seeking an Order of Possession at this time, and as such, the tenant's application in its entirety is moot.

The tenant stated that there is another issue that has not been resolved regarding whether or not the tenant is responsible for payment of certain utilities. The landlord's agent confirmed that it is her understanding that there is an issue regarding utilities owed by the tenant.

I confirmed with both parties that the 10 Day Notice issued by the landlord on May 20, 2018 does not state that any utilities are owed, only rent is specified as owing. As both parties have confirmed that no rent is owing and that the only Notice to End Tenancy in consideration at the hearing today is the one issued by the landlord on May 20, 2018, I advised that any issue pertaining to utilities owed was not before me at this hearing to determine.

Further to this, I informed both parties that if there was an issue regarding the payment of utilities or if they require any other assistance regarding the residential tenancy legislation, policies and rules, they could contact the Residential Tenancy Branch to speak with an Information Officer or visit the Branch's website. The Information Officers

at the Residential Tenancy Branch are accessible by telephone and email, and also available for in-person consultation at the office located in Burnaby, to provide assistance to both landlords and tenants regarding the process to be followed when a tenancy agreement is in dispute and the appropriate remedies available under the *Act*.

I find that there is no matter before me for consideration at this hearing, having determined the dispute regarding unpaid rent in this matter was resolved through mutual agreement by both parties in advance of the hearing. Therefore, with the consent of both parties, I order this matter dismissed without leave to reapply.

Issue(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession on the basis of the 10 Day Notice?

Should the tenant be granted an order to reduce her rent for the repairs agreed upon?

Conclusion

As the parties resolved their issues related to this dispute application through mutual agreement prior to the hearing, I order this matter dismissed 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: July 23, 2018

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Residential Tenancy Branch