



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      Tenant: CNR, FFT  
Landlord: OPRM-DR, FFL

### Introduction

This hearing dealt with applications from both the tenant and the landlord pursuant to the *Residential Tenancy Act* (the *Act*).

The tenant applied 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
- recovery of the filing fee for this application from the landlord pursuant to section 72 of the *Act*.

The landlord applied for:

- an Order of Possession for Unpaid Rent pursuant to section 46 of the *Act*;
- a Monetary Order for compensation for rent pursuant to section 67 of the *Act*; and
- recovery of the filing fee for this application from the tenant pursuant to section 72 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 tenant testified that she served the landlord with the Notice of Dispute Resolution Proceeding for this hearing by Canada Post registered mail, which was confirmed by the landlord. The landlord testified that he served the tenant with his Notice of Dispute Resolution Proceeding for this hearing by Canada Post registered mail. The tenant testified that

she received the Canada Post registered mail delivery notification card, but by the time she went to pick up the package, it was no longer available.

Based on the undisputed testimonies of the parties, I find that both parties were sufficiently served with the notice of this hearing in accordance with section 71(2)(c) of the *Act*.

Both parties confirmed that they did not receive the other party's evidence package, however, as the evidence consisted of reports already shared between the parties, and text message communication between the parties, the parties declined the option of adjourning the hearing to allow for a formal exchange of evidence.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute, and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of the issue currently under dispute at this time:

1. The tenant agreed to return vacant possession of the rental unit to the landlord by no later than 1:00 p.m. on January 15, 2019. The landlord is provided with an Order of Possession for this date and time, enforceable only in the event that the tenant fails to vacate the rental unit per the terms of this settlement.
2. The landlord agreed to the dismissal of his Application for Dispute Resolution dated November 19, 2018 seeking unpaid rent in the amount of \$2,500.00 for the month of November 2018.
3. Both parties agreed that the terms of this settlement as outlined above constitute a final and binding resolution of the landlord's application for dispute resolution filed on November 19, 2018, and the landlord's 10 Day Notice to End Tenancy dated November 4, 2018. As such, the landlord's application is dismissed in its entirety, and the landlord's 10 Day Notice is cancelled and is of no force or effect.
4. The parties agreed to the terms of this settlement free of any duress or coercion.

**The parties are still bound by all of the rights, responsibilities, terms, conditions and any statutory compensation provisions of the tenancy agreement, the Act, and the associated regulations.**

Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue to the landlord the attached Order of Possession to be served on the tenant **ONLY** if the tenant fails to provide vacant possession of the rental property per the terms of the settlement.

Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord's application for dispute resolution dated November 19, 2018 is dismissed in its entirety.

The landlord's 10 Day Notice to End Tenancy dated November 4, 2018 is cancelled and of no force or effect.

The tenancy ends by way of this settlement.

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: December 20, 2018

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Residential Tenancy Branch