



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COQUITLAM KINSMEN HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR

### Introduction

On November 26, 2018, the Tenant made an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated November 19, 2018.

The matter was set for a conference call hearing. The Tenant and Landlord attended the teleconference hearing.

At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Should the 10 Day Notice dated November 19, 2018, be cancelled?

### Background and Evidence

The parties testified that the tenancy began in August 2008, on a month to month basis. The rent is geared to income. Rent in the amount of \$536.00 is due to be paid to the Landlord by the first day of each month.

The Landlord testified that the Tenant is responsible for damage caused by a fire in the rental unit.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 19, 2018, ("the 10 Day Notice"). The 10 Day Notice states that the Tenant has failed to pay rent in the amount of \$1,286.25 which was due on November 1, 2015.

The 10 Day Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Tenant disputed the 10 Day Notice on November 26, 2018.

The Landlord testified that the amount of \$1,286.25 listed in the Notice is the amount the Tenant owes for repairs due to damage from a fire in the rental unit.

In response, the Tenant testified that the amount of \$1,286.25 on the 10 Day Notice is not unpaid rent. The Tenant submitted that she does not feel responsible for the full amount for the cost of repairs claimed by the Landlord.

The Landlord testified that the Landlord never applied for dispute resolution seeking compensation against the Tenant for the repair costs. The Landlord testified that a payment plan was arranged and the Tenant has not consistently made payments and has bounced payments.

### Analysis

Section 26 of the Act states that a Tenant must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the 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.

Section 46 (6) of the Act provides that if a tenancy agreement requires the Tenant to pay utility charges to the Landlord, and the utility charges are unpaid more than 30 days after the Tenant is given a written demand for payment of them, the Landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I find that the amount listed in the 10 Day Notice is not unpaid rent and is not an unpaid utility charge. I find that the amount of \$1,286.25 listed on the 10 Day Notice cannot be considered to be unpaid rent.

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 19, 2018, is set aside. The tenancy will continue until ended in accordance with the Act.

I find that the Landlord has not applied for dispute resolution under the Act requesting compensation from the Tenant for damages related to the fire. A determination of whether the Tenant is responsible for damages due to the fire has not been made. Since the Tenant is not in agreement that she is responsible for the fire or for the full amount claimed to repair the damage; the Landlord may apply for dispute resolution seeking a monetary order for money owed or compensation for damage or loss.

### Conclusion

The Tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 19, 2018 is successful.

I find that the amount of \$1,286.25 listed on the 10 Day Notice cannot be considered to be unpaid rent.

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 19, 2018, is set aside.

The tenancy will continue until ended in accordance with the Act.

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, 2019

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Residential Tenancy Branch