



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, CNC, LRE, RP, MNDCT, FFT

### Introduction

On January 23, 2019, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”), seeking to cancel a One Month Notice to End Tenancy for Cause pursuant to Section 47 of the *Act*, seeking to set conditions on the Landlord’s right to enter pursuant to Section 70 of the *Act*, seeking a repair order pursuant to Section 32 of the *Act*, seeking monetary compensation pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing. As well, the Landlord attended the hearing with M.L. appearing as an agent for the Landlord. All in attendance provided a solemn affirmation.

The Tenant advised that he served the Notice of Hearing package to the Landlord by hand on January 26, 2019 and the Landlord confirmed that she did receive this package. In accordance with Sections 89 and 90 of the *Act*, and based on the undisputed testimony, I am satisfied that the Landlord was served the Notice of Hearing package.

During the hearing, the parties were advised as per Rule 2.3 of the Rules of Procedure, that claims made in an Application must be related to each other, and I have the discretion to sever and dismiss unrelated claims. As such, this hearing primarily addressed the Landlord’s notices to end tenancy, and specifically the 10 Day Notice to End Tenancy for Unpaid Rent.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note 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 Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

#### Issue(s) to be Decided

- Is the Tenant entitled to have the notices cancelled?
- If the Tenant is unsuccessful in cancelling the notices, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to an Order that the Landlord's right to enter be restricted?
- Is the Tenant entitled to a repair order?
- Is the Tenant entitled to a Monetary Order for compensation?
- Is the Tenant entitled to recover the filing fee?

#### Background and Evidence

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

Both parties agreed that the tenancy started on March 1, 2018. Rent was established at \$1,100.00 per month, due on the first of each month, but was reduced to \$1,050.00 per month on May 1, 2018. A security deposit of \$550.00 was paid.

The Landlord advised that the Tenant did not pay rent for January 2019. She stated that the Landlord served the Notice to the Tenant by posting it on his door on January 16, 2019 which indicated that \$1,050.00 was outstanding on January 1, 2019. The Tenant confirmed that he received the Notice a few days after this. The Notice indicated that the effective end date of the Notice was January 28, 2019.

#### Settlement Agreement

The possibility of a settlement was raised, pursuant to Section 63(1) of the *Act*, which allows an arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written decision and make any necessary orders. I also explained that the written decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlord and the Tenant agreed as follows:

1. The 10 Day Notice to End Tenancy for Unpaid Rent of January 16, 2019 is cancelled and of no force or effect.
2. The One Month Notice to End Tenancy for Cause of January 16, 2019 is cancelled and of no force or effect.
3. The Tenant and Landlord agreed that the Tenant will have possession of the rental unit, but must vacate the rental unit by **February 28, 2019 at 1:00 PM**.
4. The Landlord gave up the right to seek compensation for rent for January or February 2019.
5. The parties agreed that fulfilment of these conditions would amount to full and complete satisfaction of the issues with respect to this tenancy, and no future applications would be made against the other party. However, this does not include any issues with respect to damage and cleaning of the rental unit at the end of tenancy or any related issues with respect to the return of the security deposit.

This agreement is fully binding on the parties. If condition three is not satisfactorily complied with, the Landlord is granted an Order of Possession effective at **1:00 PM on February 28, 2019 after service of this Order** on the Tenant.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the binding nature of this full and final settlement of these matters.

### Conclusion

I have recorded the terms of settlement in this decision and in recognition of the settlement agreement, based on the above, I hereby order that the 10 Day Notice to End Tenancy for Unpaid Rent of January 16, 2019 and the One Month Notice to End Tenancy for Cause of January 16, 2019 to be cancelled and of no force or effect.

In addition, in support of the settlement described above and with agreement of both parties, I grant the Landlord a conditional Order of Possession, to serve and enforce upon the Tenant if necessary, effective at **1:00 PM on February 28, 2019 after service of this Order**. This Order must be served on the Tenant. If the Tenant fails to comply with this Order, the Landlord may file the Order with the Supreme Court of British Columbia and be enforced as an Order of that Court.

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: February 20, 2019

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Residential Tenancy Branch