



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MT, OLC, RR

### Introduction

This hearing was convened in response to an application made March 8, 2019 by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order allowing more time to make an application to dispute a notice to end tenancy - Section 66;
2. An Order cancelling a notice to end tenancy - Section 46;
3. An Order for the Landlord’s compliance - Section 62; and
4. An Order for a rent reduction - Section 65.

The Landlords and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Preliminary Matters

The Parties agree to correct the spelling of the Respondent’s last name and the order of the Respondent’s names on this Decision from what has been set out in the application. The correction has therefore been made on this Decision and any orders made pursuant to this Decision.

The Tenant’s application seeks an order for the Landlord’s compliance and the Tenant confirms that this is in relation to the Tenant being verbally told by the Landlord to move out for two months starting April 2019 for renovations. The Tenant confirms that no notice to end tenancy for landlord’s use was given to the Tenant by the Landlord for this

purpose. The Tenant's application seeks an order for a rent reduction. The Tenant clarifies that this rent reduction is in relation to the inconvenience of having to move out temporarily.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the claims for an order for compliance and a rent reduction is not related to the matter of whether the tenancy will end for unpaid rent and as the tenancy is ending as set out below, I dismiss these claims.

#### Issue(s) to be Decided

Does the Tenant require more time to make its application to dispute the notice to end tenancy?

Is the notice to end tenancy invalid?

Is the Landlord entitled to an order of possession?

#### Background and Evidence

The following are agreed facts: There is no written tenancy agreement. The tenancy of a separate and self-contained suite with its own bathroom and kitchen started on June 1, 2018. Rent of \$600.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$300.00 as a security deposit. The Tenant did not pay rent on March 1, 2019 and on March 2, 2019 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the suite door. The effective date set out on the Notice is March 15, 2019 and rent of \$600.00 is set out as being owed.

The Landlord states that the Tenant informed the Landlord that rent could not be paid for March 2019 as Tenant had no money due to the rent monies no longer being provided to the Tenant from a government agency. The Landlord states that the Tenant also did not pay any rent for April 2019.

The Tenant states that no rent was paid for March or April 2019 because in December 2019 the Landlord told the Tenant to move out at the end of March 2019 for two months while the unit was being renovated. The Tenant confirms that the Landlord did not serve the Tenant with any written notice to end tenancy for landlord's use. The Landlord states that the Tenant was told in December 2018 to move out of the unit because the Tenant was making too much noise. The Tenant states that on March 4, 2019 the Landlord was offered the March 2019 rent in cash but the Landlord refused. The Tenant states that the Landlord also refused the Tenant's offer in April 2019 to pay the rent. The Tenant confirms that no banking documents or any other supporting evidence of this offer was provided for this hearing. The Landlord states that the Tenant never offered to pay any rent and that when the police were called around March 12, 2019 the Landlord was present to hear the Tenant inform the police that the Tenant had no money.

The Tenant asks that more time be given to the Tenant to move out of the unit. The Landlord is agreeable to an order of possession effective Monday April 15, 2019.

### Analysis

Section 46(4) of the Act provides that within 5 days after receiving a notice to end tenancy for unpaid rent, the tenant may dispute the notice by making an application for dispute resolution. Section 90(c) of the Act provides that where a document is given or served by posting the document to a door or other place, the document is deemed to be received on the 3rd day after it is attached. Given the agreed facts that the Landlord served the Tenant with the Notice by posting it on the door on March 2, 2019 I find that the Tenant is deemed to have received the Notice no later than March 5, 2019. As the Tenant made its application on March 8, 2019, I find that the Tenant made its application on time and does not require any extension of the deadline. I therefore dismiss the claim for more time to make the application to dispute the Notice.

Section 46(1) of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. Based on undisputed evidence I find that rent of \$600.00 was payable on the first day of March 2019. The Tenant does not dispute that rent was not paid when due for March 2019. The Tenant's evidence of offers to pay rent is unsupported and the Landlord's evidence that no such offer was made holds a ring of truth. As a result I prefer the Landlord's evidence and find that the Notice is valid for unpaid March 2019 rent. The Tenant's claim to cancel the Notice is dismissed.

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Considering that the required content is contained on the Notice and although the Notice appears to be dated, as there is no evidence that anything is substantially different on the Notice from the current form, and as there is no evidence of any prejudice to the Tenant by having received the dated form, I find that the Notice complies. As the Notice has been found to be valid for unpaid rent I find that the Landlord is entitled to an order of possession as agreed by the Landlord to be effective 1:00 p.m. on April 15, 2019.

Conclusion

The Tenant's claims are all dismissed and in effect the application is dismissed in its entirety.

**I grant** an Order of Possession to the Landlord effective 1:00 p.m. on April 15, 2019. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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 Act.

Dated: April 11, 2019

---

Residential Tenancy Branch