



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1185643 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, ERP, FFT, LRE, OLC, PSF, RP

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on April 9, 2019, wherein the Tenant requested the following relief:

- an Order canceling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on April 4, 2019 (the "Notice");
- an Order that the Landlord:
  - make repairs to the rental unit, emergency and otherwise;
  - be restricted from entering the rental unit;
  - provide services and facilities as required by law;
  - be ordered to comply with the *Residential Tenancy Act*, the regulations or the residential tenancy agreement;
- and to recover the filing fee.

The hearing was conducted by teleconference and was originally scheduled for 11:00 a.m. on May 23, 2019. By agreement between the parties and pursuant to my Interim Decision, the hearing continued at 11:00 a.m. on May 30, 2019. Both parties called into the hearings.

At the hearing on May 23, 2019 the Landlord confirmed that the Tenant paid the outstanding rent such that he wished to withdraw the Notice.

### *Preliminary Matter—Tenant's Failure to Comply with Interim Decision of May 24, 2019*

The Tenant failed to submit documentary evidence to support his claim for emergency repairs. During the hearing on May 23, 2019 the parties agreed to a time for the Landlord and the Tenant to attend the rental unit to observe and discuss the Tenant's

request for repairs. This agreement was confirmed by my Interim Decision dated May 24, 2019 wherein I ordered as follows:

1. the Landlord shall attend the rental unit at 12:00 noon on May 26, 2019 for the purposes of observing and investigating the following allegations made by the Tenant:
  - a. that the attic and basement show evidence of rodent activity;
  - b. that the ceilings in the rental unit are bowing;
  - c. that the water is not drinkable;
  - d. the exterior siding is falling off;
  - e. the rental unit has evidence of mold; and,
  - f. the kitchen cabinet has fallen off due to moisture in the wall.
2. Both parties shall take photos of the rental unit, including but not limited to above listed items. The parties shall send copies of their photos to each other via email and upload their photos to the Residential Tenancy Branch Online Service Portal by May 28, 2019 (for this purpose the parties email addresses are included on the unpublished cover page of this my Interim Decision)
3. The hearing shall continue at 11:00 a.m. on May 30, 2019, at which time the Tenant's claims shall be considered.
4. Should the parties resolve matters prior to the continuation of this matter they shall provide written notice to the Residential Tenancy Branch.

When the hearing continued on May 30, 2019, the parties confirmed that the Landlord attended the property on May 26, 2019 as agreed. The Landlord also brought a builder with him in order to assess the property and determine what, if anything needed to be done to repair the building. The Tenant was not available at the scheduled time due to issues with his vehicle and communicated this to the Landlord by text message (a copy of which was provided in evidence). The Tenant's roommates refused the Landlord and the builder entry to the rental property. Consequently, the Landlord was not able to investigate and observe the condition of the rental property as provided for in my Interim Decision.

## Analysis and Conclusion

Hearings before the Residential Tenancy Branch are governed by the *Residential Tenancy Branch Rules of Procedure*. Rules 1.1 and 3.1 provide as follows:

### **1.1 Objective**

The objective of the Rules of Procedure is to ensure a fair, efficient and consistent process for resolving disputes for landlords and tenants.

### **3.1 Documents that must be served**

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation of any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

The intent of my Interim Decision of May 23, 2019 was to provide the Tenant a further opportunity to submit evidence in support of his claim for emergency repairs; it was also intended to afford the Landlord an opportunity to observe and investigate the Tenant's complaints and possibly promote a settlement of this matter.

I accept the Landlord's evidence that the Tenant's roommates denied him an opportunity to enter the rental unit on May 26, 2019. The Tenant conceded that he did not propose an alternate date for the Landlord to attend.

While I accept the Tenant's inability to attend the rental unit on May 26, 2019 as agreed was not intentional, I find that to proceed with the Tenant's application without giving the Landlord an equal opportunity to observe the rental unit would deny the Landlord a fair hearing.

I therefore **dismiss, with leave to reapply, the Tenant's Application for the following relief:**

- An Order that the Landlord:
  - make repairs to the rental unit, emergency and otherwise;
  - be restricted from entering the rental unit;
  - provide services and facilities as required by law;
  - be ordered to comply with the *Residential Tenancy Act*, the regulations or the residential tenancy agreement;

The parties are reminded that should a further application be made, they must resubmit all of the evidence filed in this matter as it relates to the above claims.

Having been unsuccessful in his application, I deny the Tenant's request for recovery of the filing fee.

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: May 30, 2019

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Residential Tenancy Branch