



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, LRE, PSF, MNDCT

### Introduction

On January 24, 2020, 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 set conditions on the Landlords’ right to enter the rental unit pursuant to Section 70 of the *Act*, seeking provision of services or facilities pursuant to Section 62 of the *Act*, and seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*.

The Tenant and both Landlords attended the hearing. All parties in attendance provided a solemn affirmation.

The Tenant advised that he thought he served the Landlords with the Notice of Hearing package by hand on or around January 24, 2019 but the Landlords confirmed that they received these packages by registered mail. Based on the undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlords were served these packages.

The Tenant advised that he did not submit any evidence for consideration on this file.

The Landlords advised that they posted their evidence to the Tenant’s door on March 22, 2020 and did so on this date as they were waiting for the Tenant’s details of dispute. The Tenant advised that he did not receive this evidence as he was under quarantine due to the pandemic and could not retrieve it. As the Landlords’ evidence was not served in compliance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have excluded this evidence and will not consider it when rendering this decision.

As per Rule 2.3 of the Rules of Procedure, 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 Tenant's Application with respect to the Notice and the other claims were dismissed with leave to reapply. The Tenant is at liberty to apply for any other claims under a new and separate Application.

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.

#### Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, are the Landlords entitled to an Order of Possession?

#### 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.

All parties agreed that the tenancy started on August 1, 2011 and that rent was established at \$800.00 per month, due on the first day of each month. A security deposit of \$362.50 was also paid.

As well, all parties agreed that the Notice was served to the Tenant by being posted to his door on January 19, 2020, which indicated that \$800.00 was outstanding on January 1, 2020. All parties agreed that the Tenant did not pay this rent in full within five days of receiving the Notice and that he did not have a valid reason under the *Act* to withhold the rent. There was no effective end date of the tenancy indicated on the Notice.

### Settlement Agreement

The parties raised the possibility of settlement 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 Landlords and the Tenant agreed as follows:

1. The Tenant will withdraw this Application.
2. The Tenant will give up vacant possession of the rental unit by **midnight on March 31, 2020**.
3. The Landlords are granted an Order of Possession that is effective at **12:01 AM on April 1, 2020 after service of this Order** on the Tenant.
4. The Notice of January 19, 2020 is cancelled and of no force or effect.
5. Any personal property belonging to the Tenant that he cannot remove off the property, must be removed from the rental unit but is permitted by the Landlords to be stored under the Landlords' balcony until **midnight of April 5, 2020**.
6. The Landlords may deal with any personal property belonging to the Tenant, that is not removed from under the Landlords' balcony by **midnight of April 5, 2020**, under the *Residential Tenancy Regulations* regarding abandonment of personal property.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

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. However, the parties are still at liberty to apply for any other issues pertaining to this tenancy in the future.

Conclusion

The parties reached a full and final settlement agreement in resolution of their disputes. I have recorded the terms of settlement in this decision and in recognition of the settlement agreement, I hereby Order that the 10 Day Notice to End Tenancy for Unpaid Rent of January 19, 2020 to be cancelled and of no force or effect. The Tenant's Application has been withdrawn.

The Landlords are provided with a formal copy of an Order of Possession effective at **12:01 AM** on **April 1, 2020 after service of this Order** on the Tenant. Should the Tenant or any occupant 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.

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: March 30, 2020

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Residential Tenancy Branch