



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Pacific Skyline Construction and Development  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MT, CNR, CNC, OPR, OPC

### Introduction

This hearing was scheduled in response to the tenant's application for more time to make an application to cancel a notice to end tenancy / cancellation of a notice to end tenancy for unpaid rent / and cancellation of a notice to end tenancy for cause.

The hearing was scheduled to commence by way of telephone conference call at 9:00 a.m. on September 11, 2014. The landlord's agent attended and gave affirmed testimony. The landlord's agent testified that he was served with the tenant's application for dispute resolution and notice of hearing. Further, during the hearing the landlord made an oral request for an order of possession in the event the tenant's application does not succeed. By 9:10 a.m. the tenant had still not appeared and the hearing was concluded.

### Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

In response to an application by the landlord a previous hearing was held in a dispute between these parties on March 07, 2014 (file #). By decision of that same date, the terms of a "settlement agreement" were documented, and a monetary order was issued in favour of the landlord in the amount of \$722.00.

Pursuant to a written tenancy agreement, the tenancy began on February 01, 2013. Monthly rent of \$1,100.00 is due and payable in advance on the first day of each month, and a security deposit of \$550.00 was collected.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy for cause dated July 04, 2014. The notice was personally served on the tenant on that same date. A copy of the notice was submitted in evidence. Pursuant to section 53 of the Act which addresses how **Incorrect effective dates automatically changed**, I find that the effective date of the notice is August 31, 2014. Several reasons are identified on the notice in support of its issuance and they include "Tenant is repeatedly late paying rent."

Subsequently, the tenant filed an application to dispute the notice on July 10, 2014, however, as earlier noted the tenant did not attend the hearing scheduled in response to his application.

The landlord testified that months during which the tenant has been late in his payment of rent include, but are not limited to, February, March and April 2014. Further, the landlord's agent testified that the tenant has made no payment toward rent for July, August or September 2014.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Residential Tenancy Policy Guideline # 38 speaks to "Repeated Late Payment of Rent," and provides in part as follows:

Three late payments are the minimum number sufficient to justify a notice under these provisions.

Section 55 of the Act addresses **Order of possession for the landlord**, and provides in part as follows:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

Based on the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 1 month notice to end tenancy for cause dated July 04, 2014. While the tenant filed an application to dispute the notice within the 10 period available for doing so, the tenant failed to attend the hearing scheduled in response to his application. During the hearing the landlord made an oral request for an order of possession. Following from all of the above, the tenant's application is hereby dismissed in its entirety, and I find that the landlord has established entitlement to an order of possession.

As the landlord has established entitlement to an order of possession based principally on issuance of the 1 month notice to end tenancy for cause, I find there is no requirement at this hearing for me to consider the circumstances surrounding the landlord's issuance of a 10 day notice to end tenancy for unpaid rent. The landlord has the option of filing an application for dispute resolution in relation to any compensation to which the landlord considers there is an entitlement.

#### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. 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 *Residential Tenancy Act*.

Dated: September 11, 2014

---

Residential Tenancy Branch