



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

Tenant: CNR, PSF  
Landlord: OPR, MNR, FF

### **Introduction**

This hearing was convened in response to an application by the tenant and an application by the landlord.

The tenant sought to cancel a 10 Day notice for Unpaid Rent and for landlord to provide services required by law, which I find reasonable to amend to; a request to reduce rent for repairs, services or facilities agreed upon but not provided.

The landlord sought an Order of Possession due to unpaid rent, a Monetary Order to recover rental arrears and inclusive of recovery of the filing fee associated with this application.

Both parties attended the hearing and were given full opportunity to present all relevant evidence and testimony in respect to their claims and to make prior submission to the hearing and fully participate in the conference call hearing. The tenant was assisted by an interpreter. The landlord was represented by the son of the landlord. Both parties acknowledged receiving the evidence of the other.

### **Issue(s) to be Decided**

Should the landlord's Notice to End for unpaid rent be cancelled?

Is the Notice to End for Unpaid Rent valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Is the tenant entitled to reduce rent for repairs, services or facilities agreed upon but not provided?

### **Background and Evidence**

The undisputed testimony is that the tenancy started May 01, 2014. Rent in the amount of \$700.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected a security deposit in the amount of \$350.00 held in trust by the landlord. The landlord claims the tenant failed to pay rent for January 2015 and personally issued the tenant a 10 Day Notice to End Tenancy for Unpaid Rent on January 04, 2015. The tenant claims they paid the rent for January 2015 early, on December 18, 2014. The tenant also claims the landlord has, of late, denied them access to their mail, laundry and internet 'wi-fi' service, primarily during the landlord's absence from the country.

#### **Tenant's evidence**

The tenant provided a copy of a 'bank' account reconciliation sheet, indicating with a circle, 2 cash withdrawals of \$500.00 and \$200.00 from the account on December 18, 2014 – 5 hours apart. The tenant testified that on the same day they gave \$700.00 cash to the female landlord of this matter, to pay rent for January 2015. The tenant did not provide why they determined to pay the rent early, however in reportedly doing so it was not witnessed by anyone, nor were they provided a receipt for the cash amount by the landlord.

The tenant also testified that in the recent absence by the landlord they have not received any mail, which is first received by the landlord. Also, they do not have access to the laundry facilities included in the rent, as well as the internet 'wi-fi'. The tenant testified that to date it has cost them \$50.00 to do the laundry outside the residential unit, and that no receipts are available.

Landlord's evidence

The landlord testified that the tenant has not paid the rent for January 2015 as claimed by the tenant. The female landlord testified, denying all of the tenant's claims of having paid them rent for January 2015 in cash. The landlord testified that the tenant normally pays their rent in cash and routinely later than the date the rent is due; and, that they have always issued receipts for all rent /cash paid by the tenant. The landlord testified they would have provided a receipt for the purported December 18 rent if it were paid. The landlord provided copies of receipts for: the security deposit dated April 26, 2014, May 2014 rent dated May 01, 2014, and rent receipts for June through to December 2014; all dated subsequent to the first of each month. The landlord testified the tenant has never paid the rent on time and never early, and questioned why they would suddenly do so 14 days early. The landlord testified they gave the tenant a 10 day Notice to End for Unpaid rent on January 04, 2015 and the rent has not been paid.

The landlord testified that internet 'wi-fi' is not included in the tenancy agreement, which the tenant confirmed and acknowledged. The landlord further testified that in their current absence a relative is monitoring the incoming mail and is tasked with directing any mail of the tenant to them. During the hearing, the parties agreed use of laundry facilities are included in the rent and that for the landlord's current absence the tenant will be permitted to deduct a reasonable amount for laundry costs from future rent.

Analysis

Based on the document and testimonial evidence of the landlord and the tenant and on the preponderance of the evidence on the balance of probabilities:

- I find that in the absence of other evidence I prefer the evidence of the landlord. I find that they provided evidence they routinely give the tenant receipts for cash / rent and have done so from the outset of the tenancy. I accept the landlord's evidence that the rent has routinely been received late and there is no evidence supporting why the claimed rent for January 2015 would be paid 2 weeks early. On balance of probabilities, I accept the landlord's evidence that they have not

issued a receipt for January 2015 rent because the rent has not been satisfied by the tenant. As a result, I find the landlord's Notice to End is valid and the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent.

- I find the evidence is that internet 'wi-fi' is not a service which was *agreed upon but not provided*, and as a result I dismiss this portion of the tenant's claim.
- I accept the evidence of the landlord that the mail for the residential property is monitored during the landlord's absence and any mail of the tenant will be directed to them as received, and as a result I dismiss this portion of the tenant's claim in respect to the incoming mail.
- I find the parties agreed that for the landlord's current absence the tenant will be permitted to deduct a reasonable amount for laundry costs *incurred from this date forward* from future rent, or a debt owed to the landlord. If the parties are unable to agree to the amount for laundry the tenant is at liberty to apply for dispute resolution.
- I find the evidence is that laundry facilities are included in the rent and I accept the tenant's testimony they have incurred laundry costs to this date of \$50.00. As a result, I award this amount to the tenant.

I find the landlord is entitled to recovery of the filing fee. The security deposit and the tenant's award will be off-set from the landlord's award made herein.

*Calculation for Monetary Order*

Unpaid rent for January 2015	\$700.00
Landlord's filing fee	50.00
Tenant's laundry costs to date of hearing	-50.00
<i>Less applicable security deposit held by landlord</i>	<i>-350.00</i>
<b>Total of monetary order to landlord</b>	<b>\$350.00</b>

**Conclusion**

**I grant an Order of Possession** to the landlord **effective 2 days** from the day it is served on the tenant. The tenant must be served with this Order. 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.

**I Order** that the landlord retain the security deposit of \$350.00 in partial satisfaction of the claim and **I grant** the landlord an Order under Section 67 of the Act for the balance due of **\$350.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding on both parties.**

*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 04, 2015

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Residential Tenancy Branch

