



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MNDC, MNSD, OLC, ERP, RP, O

### Introduction

This hearing dealt with an application by the tenant seeking to have a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities set aside, a monetary order for compensation for loss or other money owed, an order to have the security deposit returned, an order to have the landlord comply with the Act, regulation or tenancy agreement, an order to have the landlord make emergency repairs for health or safety reasons, an order to have the landlord make repairs to the unit, site or property, and an order to recover the filing fee for this application. The landlord participated in the conference call hearing but the tenant(s) did not. The tenants filed this application and served the landlord the notice of hearing documents that reflect the date and time of this hearing. I found that the tenants were fully aware of today's hearing and the hearing proceeded and completed in their absence. The landlord gave affirmed evidence.

### Issues to be Decided

Are the tenants entitled to any of the above under the Act, regulation or tenancy agreement?

### Background and Evidence

The landlord gave the following testimony. The tenancy began on or about September 1, 2014. Rent in the amount of \$1000.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$500.00. The tenant failed to pay rent in the month(s) of July

and on July 18, 2016 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of August and September. The landlord stated that he was willing to assist the tenants but they continually go back on their word. The landlord stated that he at no time agreed to have the tenants withhold any rent. The landlord stated that he is more concerned with getting the order of possession at this time and will seek a monetary order in a separate hearing.

### Analysis

I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and although they did apply for dispute resolution to dispute the notice, they noted in their own documentation that they withheld the rent for the past three months without the landlords consent or an order from the Branch. The tenants submitted documentation that states that they felt justified in withholding rent because there were some repairs that needed to be done.

Section 26 of the Act addresses the issue before me as follows:

### **Rules about payment and non-payment of rent**

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Based on the above facts I find that the landlord is entitled to an order of possession pursuant to Section 55 of the Act. The tenant must be served with the 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.

As the tenants chose not to participate in today's hearing, I hereby dismiss their application in its entirety.

Conclusion

The landlord is granted an order of possession.

The tenants' application is dismissed in its entirety.

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 13, 2016

---

Residential Tenancy Branch