



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      CNR, FF

### Introduction

This matter dealt with an application by the Tenants to cancel two 10 Day Notices to End Tenancy for Unpaid Rent dated July 15, 2009 and August 17, 2009 as well as to recover the filing fee for this proceeding.

### Issues(s) to be Decided

1. Are the Landlords entitled to end the tenancy?

### Background and Evidence

This fixed term tenancy started on December 1, 2008 and expires on November 30, 2009. Rent is \$2,350.00 payable on the 1<sup>st</sup> day of each month. The Tenants asked the Landlords not to deposit their July 2009 rent cheque until they advised them that it was okay to do so. The Landlords said the Tenants failed to contact them after approximately 2 weeks and as a result, they served the Tenants in person on July 15, 2009 with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities. The Landlords said the Tenants' rent cheque for August 2009 rent was returned for insufficient funds and September 2009 rent is unpaid.

The Tenants said they did contact the Landlords but not as frequently as they Landlords wanted. The Tenants admitted that they have not paid rent for July, August and September 2009.

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the amount set out on the Notice or apply for dispute resolution. Consequently, the Tenants would have had to pay the amount on the Notice or apply to dispute that amount no later than July 20, 2009.

Although the Tenants applied for dispute resolution on July 20, 2009, I find that there are no grounds for the Tenants' application as I find that the Landlords did not agree to



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wait indefinitely for payment of the rent and rent remains unpaid. The Landlords requested and I find pursuant to s. 55(1) of the Act that they are entitled to an Order of Possession to take effect at 1:00 p.m. on September 30, 2009.

## Conclusion

The Tenants' application is dismissed. An Order of Possession to take effect on September 30, 2009 has been issued to the Landlords and a copy of it must be served on the Tenants. The Order of Possession may be enforced in 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: September 08, 2009.

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Dispute Resolution Officer