



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a notice to end tenancy for unpaid rent and to recover the cost of the filing fee from the Landlord for this application.

No one appeared at the teleconference hearing on behalf of the Tenant however the Landlord appeared at the hearing.

### Issue(s) to be Decided

1. Has a valid 10 Day Notice to End Tenancy been issued and served to the Tenant in accordance with the *Residential Tenancy Act*?
2. If so, has the Tenant met the burden of proof to have the 10 Day Notice cancelled?

### Background and Evidence

There was no additional evidence or testimony provided in support of the Tenant's claim as no one attended the teleconference hearing on behalf of the Tenant.

The Landlord advised he was notified this morning by the downstairs tenant that the applicant Tenant vacated the property yesterday. The Landlord's Agent attended the unit today and told the Landlord the unit appears to be vacant.

The Landlord stated he attended today's hearing to request an Order of Possession effective immediately because he is concerned this Tenant may return to the unit and vandalize it as tonight is Halloween night. He explained how the Tenant had displayed previous acts of aggression so he is concerned that if he cannot regain possession immediately to secure the rental unit there may be damage caused to the property.

Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing. In the absence of the applicant Tenant, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the applicant Tenant called into the hearing during this time. Based on the aforementioned I find that the Tenant has failed to present the merits of his application and the application is dismissed.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing.

Conclusion

I HEREBY DISMISS the Tenant's application, without leave to reapply.

I HEREBY FIND that the landlord is entitled to an Order of Possession effective **immediately**. This Order is legally binding and may be enforced in Supreme 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: October 31, 2011.

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Residential Tenancy Branch