



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OPT

### Introduction

This matter dealt with an application by the Tenant to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 5, 2011 and for an Order of Possession.

The oral hearing via teleconference started at 11:00 a.m. as scheduled, however, by 11:10 a.m. the Tenant had not dialled into the conference call and as a result, the hearing proceeded in the Tenant's absence. The Landlords indicated at the beginning of the hearing that their surname was incorrect on the Tenant's application and as a result, the style of cause is amended to reflect the proper surname of the Landlords (as set out on the 10 Day Notice served on the Tenant).

### Issue(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?

### Background and Evidence

This tenancy was to start on December 1, 2011 however, the Landlord, D.D., said the previous tenants had not removed all of their possessions or cleaned as of that date and as a result, the Tenant did not take possession of the rental unit until December 2, 2011. Rent is \$1,200.00 payable in advance on the 1<sup>st</sup> day of each month.

The Landlords said the Tenant paid a security deposit of \$575.00 on November 28, 2011 but did not pay the rent for December. The Landlords said they asked the Tenant for her rent payment on December 2, 3, 4 and 5, 2011 however she said she did not have it. Consequently, on December 5, 2011, the Landlords served the Tenant's adult son (who also resides in the rental unit) in person with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 5, 2011. The Landlords said they also asked the Tenant for the rent on December 17, 2011 but she said she did not have the rent and they noticed at that time that she had removed many of her furnishings from the rental unit. The Landlords said the Tenant has not paid the overdue rent.

### Analysis

I find that the Tenant was served on December 5, 2011 with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 5, 2011. Consequently, pursuant to s. 46(4) of the Act, the Tenant had 5 days or no later than December 10, 2011 to pay the rent arrears in full or to dispute the Notice if she believed the amount was not owed. Although the Tenant applied to dispute the 10 Day Notice within 5 days, I find that there are no grounds for her application as I also find that the overdue rent alleged on the 10 Day Notice (ie rent for December 2011) is owed and remains unpaid.

Although the Tenant alleged on her application that the Landlords refused to take her rent payment for December 2011, she provided no evidence of this. Consequently, the Tenant's application to cancel the 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated December 5, 2011 is dismissed without leave to reapply. The Landlords requested and I find that they are entitled pursuant to s. 55(1) of the Act to an Order of Possession to take effect 2 days after service of it on the Tenant.

### Conclusion

The Tenant's application is dismissed without leave to reapply. An Order of Possession to take effect 2 days after service of it on the Tenant has been issued to the Landlords. A copy of the Order must be served on the Tenant and 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: January 03, 2012.

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Residential Tenancy Branch