



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR

### Introduction

This hearing dealt with an application submitted on the tenant's behalf pursuant to section 46 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) issued to obtain vacant possession of the rental unit on January 15, 2012.

The Respondent (the landlord) appeared at the date and time set for the hearing of this matter. The Applicant did not, although I waited until 1:47 p.m. to enable him to connect with this teleconference hearing.

At the hearing, the landlord requested an Order of Possession if the tenants' application for cancellation of the 10 Day Notice were dismissed. The landlord and his witness testified that the tenant (or his agent) had submitted an inaccurate copy of the 10 Day Notice they had posted on the tenant's door on January 6, 2012. They subsequently sent a fax of what they maintained was the correct signed and dated January 6, 2012 10 Day Notice and a copy of a photograph of this Notice posted on the tenant's door.

### Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

### Background

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the hearing** The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

### Analysis

**In the absence of evidence or submissions from the applicant or his agent, I order the application dismissed without liberty to reapply.**

Section 55(1) of the *Act* reads as follows:

**55** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

*(a) the landlord makes an oral request for an order of possession, and*

*(b) the director dismisses the tenant's application or upholds the landlord's notice.*

Based on my decision to dismiss the tenants' application for dispute resolution, I find that this tenancy ended on January 19, 2012, the earliest time that this tenancy could end based on the date of the landlord's service of the Notice to the tenants. I accept the landlord's undisputed evidence that the tenant did not pay the full amount of the \$1,600.00 identified as owing for January 2012 rent in the 10 Day Notice. The landlord is provided with a 2 day Order of Possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

### Conclusion

I dismiss the tenant's application for dispute resolution without leave to reapply.

At the hearing, the landlord requested an Order of Possession if the tenant's application for cancellation of the Notice to End Tenancy were dismissed. I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of 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: February 03, 2012

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Residential Tenancy Branch