



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR

### 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 June 5, 2012.

### Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This month-to-month tenancy started on November 1, 2011. Rent is \$950.00 per month payable in advance on the 1<sup>st</sup> day of each month. The Landlord said the Tenant did not pay rent for June 2012 when it was due and as a result, on June 5, 2012, she served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 5, 2012 by posting it to the rental unit door.

The Parties agree that the Tenant sent her rent payment for June 2012 to the Landlord on June 15, 2012 by registered mail and that the Landlord received it on June 18, 2012. The Parties also agree that the Landlord gave the Tenant a receipt for that payment stating that it was "for use and occupancy only and did not reinstate the tenancy."

### 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 overdue rent or (if they believe the amount is not owed) apply for dispute resolution. If a Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice and they must vacate the rental unit at that time.

I find that on June 5, 2012, the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities when it was posted to the rental unit door. Pursuant to s. 90

of the Act, the Tenant is deemed to have received that Notice three days later or on June 8, 2012. Consequently, the Tenant would have had to pay the rent arrears owing or if the arrears were not owed, apply to dispute that amount no later than June 13, 2012.

Although the Tenant filed an application on June 13, 2012 to dispute the 10 Day Notice, I find that there is no basis upon which I can grant her application because she admitted that there were rent arrears that were not paid until after the 5 days granted under s. 46(4) of the Act for cancelling a 10 Day Notice. Consequently, the Tenant's application is dismissed without leave to reapply. The Landlord requested and I find that she is entitled pursuant to s. 55(1) of the Act to an Order of Possession to take effect at 1:00 p.m. on Sunday July 22, 2012.

### Conclusion

The Tenant's application is dismissed without leave to reapply. An Order of Possession to take effect on July 22, 2012 has been issued to the Landlord. 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: July 05, 2012.

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Residential Tenancy Branch