



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened on the tenant's application of November 30, 2012 to have set aside a one-month Notice to End Tenancy for cause served on November 24, 2012 and setting an end of tenancy date of December 23, 2012. The end date is automatically corrected to December 31, 2012 by section 53 of the *Act* to bring it into compliance with the time requirements of section 47(2) of the *Act*.

The tenant also sought more time to bring this application, but that request is moot as the application was made within the ten days granted by section 47(4) of the *Act*.

Despite having made the application, the tenant did not call in to the number provided to enable his participation in the telephone conference call proceeding, while the landlord did participate and had submitted a substantial amount of evidence. On the applicant tenant's failure to appear, the application is dismissed without leave to reapply.

Among other documents, the landlord submitted into evidence a copy of a letter dated January 5, 2013 in which he reviewed a meeting with the tenant on January 3, 2013. During that meeting, the parties mutually agreed that the tenancy will end on January 15, 2013.

The letter stated that the tenant could commit to the mutual agreement by signing the letter in a space provided for his acknowledgement which he did on January 6, 2013 and returned the signed copy to the landlord that day.

On hearing that the application was dismissed on the tenant's failure to appear, the landlord requested an Order of Possession. Section 55(1) of the *Act* compels the issuance of the order on the landlord's verbal request when a tenant's application to set aside a Notice to End Tenancy is dismissed.

Accordingly, I find that the landlord is entitled to an Order of Possession. As the parties had signed the mutual agreement to end the tenancy on January 15, 2013, I have set the effective date of the Order at 1 p.m. on that date.

### Conclusion

The application is dismissed without leave to reapply.

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on January 15, 2013, for service on the tenant.

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 09, 2013.

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Residential Tenancy Branch

