



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding R. STEWART INVS.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, ERP

### Introduction

This hearing was scheduled for a teleconference call at 9:30 a.m. on this date to deal with a tenant's Application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and Orders for emergency repairs. The tenants did not appear at the hearing despite leaving the teleconference call open until 9:40 a.m. The landlord appeared at the hearing and was prepared to deal with the tenant's Application. As the tenants failed to appear and the landlord did appear I dismissed the tenants' Application without leave to reapply.

The landlord stated the tenants continue to occupy the rental unit and orally requested an Order of Possession be provided to him.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent. The tenants provided a copy of such a Notice in filing their Application. The Notice is dated June 5, 2013 and indicates he tenants failed to pay rent of \$850.00 that was due on June 1, 2013.

The landlord testified that the tenants gave the landlord a cheque dated June 25, 2013 but the cheque has not yet cleared and the tenants have not paid any rent for July 2013.

### Analysis

Section 55 of the Act provides that an Order of Possession shall be granted to a landlord where:

- The tenant files to cancel a notice to End Tenancy and the application is dismissed; and,
- The landlord orally requests an Order of Possession during the scheduled hearing.

As I have dismissed the tenants' Application to cancel the 10 Day Notice to End Tenancy and the landlord orally requested an Order of Possession during the scheduled hearing I find the landlord entitled to an Order of Possession under section 55 for the Act.

In light of the above, I provide the landlord with an Order of Possession effective two (2) days after service upon the tenants.

### Conclusion

The tenants' Application has been dismissed without leave to reapply and the landlord has been provided an Order of Possession effective two (2) days after service upon the tenants.

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 10, 2013

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Residential Tenancy Branch

