



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GATEWAY PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNR OPR FF

### **Introduction:**

This was an application by the tenant to cancel a Notice to End the Tenancy for non-payment of rent dated December 3, 2014. The tenant/applicant did not attend the hearing.

### **SERVICE:**

I find that the Notice to End a Residential Tenancy was served by posting it on the door on December 3, 2014. The landlord admitted service of the application for dispute resolution.

**Issues:** Is the tenant entitled to any relief?

### **Background and Evidence:**

The tenant/applicant did not attend the hearing. After waiting 10 minutes, the hearing proceeded and concluded in his absence. The landlord attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The original tenancy began on October 1, 2011. The current rent is \$860.. The landlord said the tenant is still in residence and now owes two months rent for December 2014 and January 2015. The landlord requests an Order of Possession if the tenant's application is unsuccessful.

No documentary evidence was provided by the tenant. In his application he stated the Notice should be cancelled due to "unlivable conditions".

### **Analysis:**

The Notice to End a Residential Tenancy is based on non-payment of rent. The *Residential Tenancy Act* permits a tenant to apply to have the Notice set aside where the tenant disputes that rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from the rent. Although the tenant disputed the Notice in time, his complaint does not constitute valid reasons to withhold his rent. Section 26 of the Act requires a tenant to pay rent whether or not the landlord fulfills their obligations under the Act.

I have therefore dismissed his application to cancel the Notice to End the Tenancy. Section 55(1)(a) provides that the arbitrator must grant an order of possession of the

rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 46 and has upheld the Notice. The landlord has made this request at the hearing. As a result I granted the landlord an Order for Possession.

**Conclusion:**

I granted the landlord an Order for Possession effective two days from service. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I dismiss the tenant's application without recovery of the filing fee.

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 07, 2015

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Residential Tenancy Branch

