



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            CNR, OPR, MNR, FF

### Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The landlord appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### Tenant's application

This matter was set for hearing by telephone conference call at 2:30 P.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenant did not attend the hearing by 2:40 P.M, and the landlord appeared and was ready to proceed, I dismiss the tenant's application without leave to reapply.

### Landlord's application

Although served with the Application for Dispute Resolution and Notice of Hearing, by registered mail, sent on March 3, 2015, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

### Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

### Background and Evidence

Based on the testimony of the landlord, I find that the tenant was served with a notice to end tenancy for non-payment of rent on February 6, 2015, by posting to the door. The document

was acknowledged by the tenant that it was received on February 6, 2015, as that was the date the tenant wrote in their application for dispute resolution, which I have dismissed.

The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord testified that the tenant's rent cheque for February 2015, was returned for insufficient funds. The landlord stated that the tenant did not pay the outstanding rent for February 2015.

The landlord testified that he had a postdated cheque for March 2015, rent. The landlord stated that he was able to cash that cheque on March 3, 2015, however, he was not reinstating the tenancy as rent is still outstanding for February 2015.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

Although the tenant applied to dispute the notice to end tenancy on February 12, 2015, I find that application had no merit as the rent was not paid within 5 days.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of \$925.00 comprised of unpaid rent for February 2015, and the \$50.00 fee paid by the landlord for this application. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

The tenant failed to pay rent and although the tenant filed to dispute the notice to end tenancy. The tenant's application had no merit as rent was not paid. The tenant's application was dismissed.

The landlord is granted an order of possession and a monetary order for unpaid rent for February 2015.

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: March 16, 2015

