



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, RP, O, FF

### Introduction

This hearing dealt with the tenant's *Residential Tenancy Act* ("the *Act*") application for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 46; an order to the landlord to make repairs to the rental unit pursuant to section 33; an other remedy under the *Act*; and authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant/applicant did not attend this hearing, although I waited until 9:19 am in order to enable the tenant to connect with this teleconference hearing scheduled for 9:00 am.

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1** The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

**In the absence of the tenant/applicant's participation in this hearing, I order the tenant's application dismissed without liberty to reapply.** The landlord testified that the tenant still resides in the rental unit. He made an oral request for an Order of Possession pursuant to section 55(1).

The landlord provided undisputed evidence that the 10 Day Notice was personally served to the tenant on March 30, 2015. The landlord confirmed receipt of the tenant's Application for Dispute Resolution and Notice of Hearing to cancel the 10 Day Notice. The landlord provided sworn testimony that his evidence for this hearing was provided to the tenant by posting it on her door on May 11, 2015. I accept that the tenant was duly served with the 10 Day Notice and deemed served with the landlord's evidence package on May 14, 2015.

### Issue to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The landlord gave evidence that the rental agreement for the premises began on January 15, 2014 with a rental amount of \$950.00 payable on the first of each month. He provided sworn, undisputed testimony that the tenant's rent was waived for the first two months as they were required to do extensive cleaning to the unit after the previous tenancy. The landlord testified that the tenants paid \$1000.00 to him on February 9, 2014. He testified that he continues to hold \$500.00 as a security deposit. He testified that the other \$500.00 was provided by the tenant to pay the April 2014 rent.

The landlord made an oral application at this hearing for an Order of Possession with respect to unpaid rent. He provided a 10 Day Notice to End Tenancy on March 30, 2015 after the tenant failed to pay any rent for the month of March 2015. The landlord testified that the tenant did not pay rent in full or on time over the course of the tenancy. He testified that \$6940.00 in rent remains outstanding as of the date of this hearing.

The landlord testified that, after receiving the 10 Day Notice, the tenant did not pay any rental arrears. He testified that, at that time, the tenant began to complain there was no heat or hot water. He testified that he made attempts to investigate the heat/hot water issue only to discover that the tenant had not paid any money to the utility provider.

The landlord testified that, as the tenant paid no rent, he was forced to continue working while injured. He now faces amputation of his toe as a result of continued labour work.

### Analysis

Section 55(1) of the Act reads as follows:

**55** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

*(a) the landlord makes an oral request for an order of possession, and*

*(b) the director dismisses the tenant's application or upholds the landlord's notice.*

The tenant failed to pay the March rent or previous rental arrears. The tenant's application pursuant to section 46(4) of the *Act* is dismissed as the tenant failed to attend to address the application. In accordance with section 55(1) of the *Act*, I find the landlord is entitled to a 2 day Order of Possession.

### Conclusion

At the hearing, the landlord requested an Order of Possession if the tenant's application for cancellation of the Notice to End Tenancy were dismissed. The tenant's application is dismissed.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of 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: May 21, 2015

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Residential Tenancy Branch

