



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, CNR, FF

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenants on March 30, 2015 to cancel a notice to end tenancy for cause and to recover the filing fee for the Landlord. The Tenants amended the Application on April 7, 2015 to also cancel a notice to end tenancy for unpaid rent and utilities.

An agent for the owner of the company named on the Application (the “Landlord’s agent”) appeared for the hearing; the owner of the company had provided written confirmation of this agent appearing for this hearing to act on his behalf.

The Landlord’s agent provided affirmed testimony during the hearing and referred to the Tenants’ evidence which had been provided prior to the hearing; this included both notices to end the tenancy. However, the Tenants failed to appear for the ten minute duration of the hearing.

As the Tenants failed to appear for the hearing and the Landlord’s agent appeared and was ready to proceed, I determined that the Tenants failed to present the merits of the Application. Therefore, I dismissed the Application **without** leave to re-apply. The Landlord made an oral request for an Order of Possession during the hearing based on the following evidence.

The Landlord’s agent testified that the owner of the company named on the Application personally served the Tenants with a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”) on March 21, 2015. The 1 Month Notice had an effective vacancy date of May 1, 2015.

The Landlord’s agent testified that he personally served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) on April 6,

2015. The 10 Day Notice had an effective vacancy date of April 16, 2015 due to \$1,140.00 in unpaid rent due on April 1, 2015.

The Landlord's agent testified that the Tenant had not paid rent for April and May 2015 and wanted to make a monetary claim for this. However, I informed the Landlord's agent that no Application for a Monetary Order had been made but he was at liberty to make an Application and put the Tenants on notice for a monetary claim.

Section 55(1) of the Act states that if a tenant makes an Application to dispute a Notice and the Application is dismissed, the Arbitrator must grant an Order of Possession if the landlord makes an oral request during the hearing.

As the Landlord made an oral request and the effective vacancy dates on the notices to end tenancy have now passed, I grant the Landlord an Order of Possession pursuant to Section 55(1) of the Act effective two days after service on the Tenant. This order must be served onto the Tenants and if the Tenants fail to vacate the rental suite in accordance with the order, the order may be enforced in the Supreme Court as an order of that court. Copies of the order are attached to the Landlord's copy of this decision.

### Conclusion

For the reasons set out above, I dismiss the Tenants' Application in its entirety without leave to re-apply as they failed to appear for the hearing and present the merits of their Application. The Landlord is granted an Order of Possession following an oral request during the hearing which is effective two days after 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: May 12, 2015

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Residential Tenancy Branch

