



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNR RR

### Introduction

The tenant applied under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”), and for authorization to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided.

The tenant and the landlord attended the hearing. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony evidence and to make submissions to me. I have considered all of the relevant evidence that was submitted in accordance with the rules of procedure, and testimony provided.

The landlord confirmed receiving the evidence from the tenant and that that evidence was reviewed prior to the hearing. The landlord’s evidence was excluded in full as the landlord testified that she did not serve the tenant with her documentary evidence. I find the landlord was served in accordance with the rules of procedure.

### Preliminary and Procedural Matter

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated a second matter of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the 10 Day Notice. I find that tenant’s request for a rent reduction is not sufficiently related to the cancellation of a 10 Day Notice to be determined during this proceeding. I will, therefore, only consider the tenant’s request to set aside the 10 Day Notice at this proceeding. The balance of the tenant’s application is **dismissed, with leave to re-apply**.

Issue to be Decided

- Should the 10 Day Notice dated July 5, 2015 be cancelled?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on November 1, 2014. Monthly rent in the amount of \$600 plus utilities was due on the first day of each month. A security deposit of \$300 was paid by the tenants at the start of the tenancy, which the landlord continues to hold.

The tenant confirmed the he received a 10 Day Notice dated July 5, 2015 on July 5, 2015. The tenant disputed the 10 Day Notice on July 9, 2015 which is within the required 5 day timeline provided for under section 46 of the *Act*. According to the 10 Day Notice, \$600 was owed as of July 1, 2015. The effective vacancy date on the 10 Day Notice is listed as July 15, 2015.

The landlord testified that \$600 remains owing for July 2015 and \$600 was not paid for August 2015 either. The tenant continues to occupy the rental unit. The tenant confirmed that rent for July and August 2015 was not paid but that he overpaid utilities.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

**10 Day Notice** – The tenant testified under oath that rent for July and August 2015 were not paid but that he overpaid utilities. The effective vacancy date on the 10 Day Notice is listed as July 15, 2015. Section 26 of the *Act* requires that the tenant pay rent on the day that it is due in accordance with the tenancy agreement whether or not the landlord complies with the *Act*. Therefore, based on the above, I dismiss the tenant's application to cancel the 10 Day Notice due to insufficient evidence. I find the 10 Day Notice issued by the landlord to be valid and is upheld as the tenant should have paid \$600 for July and August, and if he had a dispute with overpaid utilities, filed to dispute those utilities which the tenant failed to do. The landlord made a verbal request for an order of possession once the tenant's application was dismissed.

Pursuant to section 55 of the *Act*, I must grant the landlord an order of possession. Therefore, I grant the landlord an order of possession effective two (2) days after service on the tenant.

Conclusion

The tenant's application to cancel the 10 Day Notice is dismissed.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: August 28, 2015

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Residential Tenancy Branch

