



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Century Place  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNR  
OPR

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy for unpaid rent. The tenant did not appear. However, the landlord's agent (the "landlord") attended and gave affirmed testimony.

During the hearing the landlord testified that the landlord had been served with the tenant's application for dispute resolution and the notice of hearing (the "hearing package"). The landlord also made an oral request for an order of possession in the event the tenant's application does not succeed.

### Issue(s) to be Decided

Whether the either party is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement the month-to-month tenancy began on January 30, 2015. Monthly rent of \$950.00 is due and payable in advance on the first day of each month, and a security deposit of \$475.00 was collected.

Arising from rent which remained unpaid in full when due on June 01, 2015, the landlord issued a 10 day notice to end tenancy for unpaid rent dated June 10, 2015. The notice was served by way of posting to the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is June 20, 2015. Subsequently, the tenant filed an application to dispute the notice on June 12, 2015, however, she made no further payment toward rent and it is unknown for sure whether she presently still resides in the unit.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 10, 2015. The tenant did not pay the full amount of rent outstanding within 5 days of receiving the notice, even while she filed an application to dispute the notice on June 12, 2015.

Section 26 of the Act addresses **Rules about payment and non-payment of rent**, in part:

26(1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 55 of the Act addresses **Order of possession for the landlord**, in part:

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.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, and in the absence of any evidence that the tenant had a right under the Act to deduct all or a portion of the rent, as well as the absence of the tenant at the hearing scheduled in response to her application, I find that the tenant's application for cancellation of the notice to end tenancy must be dismissed.

Following from the above, and in view of the landlord's oral request for an order of possession during the hearing, I find that the landlord has established entitlement to an **order of possession**.

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: August 05, 2015

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Residential Tenancy Branch

