



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, MT, FF

### Introduction

Pursuant to the *Act*, and amendments thereto I was designated to hear this matter under section 58. This hearing was scheduled as a result of an application from the tenant under the *Residential Tenancy Act* ("the *Act*"). The tenant applied to cancel the 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") and to recover the filing fee from the landlord for the cost of this application pursuant to section 72. She also included a request for more time to make her application.

The tenant did not attend although the 10:30 am teleconference continued until 10:47 am. The landlord attended this hearing and was given an opportunity to be heard, to present evidence and to make submissions. The landlord made an oral application for an Order of Possession pursuant to section 55 of the *Act* should the tenant be unsuccessful or fail to attend for her application.

The landlord provided evidence including sworn undisputed testimony that a 10 Day Notice to End Tenancy for Unpaid Rent was served to the tenant on October 8, 2015 by posting it on the door of the rental unit. As the tenant filed an application to dispute the notice, I find that the tenant was deemed served with the 10 Day Notice on October 11, 2015.

With respect to the tenant's failure to attend this hearing, Rule 10.1 of the Rules of Procedure provides as follows:

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's participation in this hearing to support her application and given the evidence provided at this hearing, **I order the tenant's application dismissed without liberty to reapply.**

Issue(s) to be Decided

As the tenant failed to attend, her application is dismissed. Pursuant to section 55, 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 August 5, 2015. The rental amount for this unit is currently \$975.00 payable on the first of each month. The landlord testified that she continues to hold the \$487.50 security deposit that the tenant paid on July 20, 2015.

At this hearing, the landlord made an oral application for an Order of Possession for Cause, relying on documentary evidence submitted to show the tenant has failed to pay rent. She testified that, as of the date of this hearing, the tenant continues to reside in the rental unit. The landlord provided undisputed sworn testimony that the tenant has not paid rent for the months of October, November or December. She testified that the tenant has been late in paying rent in the two months previous (August, September 2015) at the outset of the tenancy.

The landlord submitted documentary evidence including a copy of the ongoing text message conversation between the tenant and landlord. In those messages, the landlord repeatedly advises the tenant to pay her rent or face eviction.

Analysis

Based on all of the undisputed testimony and evidence provided by the landlord, I find the landlord has failed to pay rent in accordance with the provisions of the *Act*.

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 made an application to dispute the landlord's notice to end tenancy. The tenant did not attend to support her application. Her application was dismissed. The landlord made an oral request for an order of Possession. The landlord provided sufficient evidence to justify the notice to end tenancy. As I have dismissed the tenant's application, **I find the landlord is, pursuant to section 55(1), entitled to an Order of Possession.**

### Conclusion

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: December 16, 2015

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Residential Tenancy Branch

