



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNR

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy for unpaid rent. Both parties attended and gave affirmed testimony. During the hearing the landlords confirmed that an order of possession is sought in the event the tenant's application does not succeed.

### Issue(s) to be Decided

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

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the tenancy began on September 01, 2011. Monthly rent is due and payable in advance on the first day of each month. The current monthly rent is \$600.00. While a security deposit was collected at the start of tenancy, the exact amount could not be confirmed.

Pursuant to section 46 of the Act which addresses **Landlord's notice: non-payment of rent**, arising from rent which remained unpaid when due on January 01, 2016, the landlords issued a 10 day notice to end tenancy for unpaid rent dated January 05, 2016. The notice was personally served on that same date. Subsequently, the tenant filed an application to dispute the notice on January 14, 2016, and later paid her January rent in full on January 20, 2016. Thereafter, February's rent was paid in full on February 17, 2016, and at the time of the hearing rent had still not been paid for March 2016.

### Analysis

Based on the documentary evidence and testimony, I find that on January 05, 2016 the tenant was personally served with a 10 day notice to end tenancy for unpaid rent dated January 05, 2016. The tenant did not pay the outstanding rent within 5 days of receiving the notice (rent was paid in full on January 20, 2016), and the tenant did not file an application to dispute the notice within 5 days of receiving it (tenant's application

was filed on January 14, 2016.) The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice, and her application to dispute the notice is hereby dismissed.

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 to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As I find that the landlords' notice to end tenancy complies with the Act, and as I have dismissed the tenant's application for cancellation of the notice, I further find that the landlords have established entitlement to an **order of possession**. Finally, as the end of tenancy nears, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**

### Conclusion

I hereby issue an **order of possession** in favour of the landlords effective **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: March 01, 2016

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Residential Tenancy Branch

