



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the landlord.

At the outset of the hearing the landlord submitted that the tenant had told him that she would be seeking an adjournment to this hearing, however the tenant or an agent for the tenant did not appear at the hearing to request an adjournment.

I reviewed the file and note that on March 6, 2017 the tenant called the Residential Tenancy Branch and was advised that she would need the landlord's consent in writing submitted to the Branch no later than March 8, 2017. There is no evidence in the file or any record that such consent was received at any time prior to the hearing by the Branch.

As a result, I find the tenant has neither sufficiently requested that the hearing be re-scheduled nor attended (her or her agent) this hearing to request an adjournment to these proceedings. Therefore, the hearing continued in the absence of the applicant tenant.

I note that Section 55 of the *Residential Tenancy Act (Act)* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to Section 46 of the *Act*.

Should the tenant be unsuccessful in seeking to cancel the 10 Day Notice to End Tenancy for Unpaid Rent it must also be decided if the landlord is entitled to an order of possession pursuant to Section 55(1) of the *Act*.

### Background and Evidence

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent on February 6, 2017 with an effective vacancy date of February 17, 2017 citing the tenant had failed to pay rent in the amount of \$1,950.00 due on February 1, 2017.

### Analysis

Section 46 of the *Act* states a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy on a date that is not earlier than 10 days after the date the tenant receives the notice. A notice under this section must comply with Section 52 of the *Act*.

In the absence of the applicant tenant to present her position and/or evidence in regard to her Application, I dismiss the tenant's Application for Dispute Resolution in its entirety.

Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord; give the address of the rental unit; state the effective date of the notice, state the grounds for ending the tenancy; and be in the approved form.

I find the 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on February 6, 2017 complies with the requirements set out in Section 52.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 52 of the *Act*.

### Conclusion

As I have dismissed the tenant's Application for Dispute Resolution, I find the landlord is entitled to an order of possession effective **two days after service on the tenant**, pursuant to Section 55 of the *Act*. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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 14, 2017

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Residential Tenancy Branch