



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ERLIN HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes:      CNR

### Introduction

This hearing was set for a telephone conference call at 9:00 a.m. in response to the Tenants' Application for Dispute Resolution (the "Application") made on March 7, 2017. The Tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice").

The owner of the company Landlord appeared for the hearing and provided affirmed testimony. However, there was no appearance for the Tenants during the 40 minute hearing, although the Tenants did provide a copy of the 10 Day Notice into evidence prior to the hearing. The Landlord owner testified that he had been served by the Tenants personally with their Application and notice of this hearing.

The Landlord owner testified that the Tenants are still occupying the rental unit and have not paid the outstanding rent detailed on the 10 Day Notice of \$400.00 for March 2017 and also have not paid any rent for April 2017.

### Preliminary Findings

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure state that if a party or their agent fails to attend the hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply. As the Tenants failed to appear for the hearing and present the merits and reasons to dispute the 10 Day Notice, and the Landlord appeared and was ready to proceed, I dismissed the Tenants' Application without leave to reapply.

Section 55(1) of the Act provides that if a tenant makes an Application to dispute a landlord's notice to end a tenancy, the director must grant an order of possession to the landlord if the notice to end tenancy complies with Section 52 of the Act.

I have examined the 10 Day Notice dated March 2, 2017 provided by the Tenants into evidence. I find the Landlord used the approved form, and the contents within comply with Section 52 of the Act. The 10 Day Notice shows a vacancy date of March 15, 2017.

As the Tenants' Application has been dismissed, I must now grant the Landlord an Order of Possession pursuant to Section 55(1) of the Act. In consideration of when the Order of Possession is to take effect, the vacancy date on the 10 Day Notice has now passed and the evidence before me is that the Tenants are still occupying the rental unit without paying rent. Therefore, the Landlord is entitled to an Order of Possession which is effective two days after service on the Tenants.

Copies of this order are attached to the Landlord's copy of this Decision. This order may be filed and enforced in the BC Supreme Court as an order of that court if the Tenants fail to vacate the rental unit. The Tenants may also be held liable for any enforcement costs incurred by the Landlord to obtain vacant possession of the rental unit.

### Conclusion

The Tenants' Application is dismissed **without** leave to re-apply as they failed to appear for the hearing and present the merits of the Application. The Landlord is granted a two day Order of Possession to end the tenancy.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 10, 2017

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Residential Tenancy Branch