



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      CNR, FF

### **Introduction**

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the “Act”). The tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 14, 2017 (the “10 Day Notice”) and to recover her application filing fee.

The tenant attended the hearing. Two managers attended on behalf of the landlord. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, to make submissions, and to respond to the submissions of the other party.

Service of the tenant’s application, the notice of hearing, and of the parties’ evidence was not at issue.

I have reviewed and considered all evidence and testimony before me that met the requirements of the Rules of Procedure, but refer to only the relevant facts and issues in this decision.

### **Issues**

Is the tenant entitled to an order cancelling the 10 Day Notice?

Is the tenant entitled to recovery of the application filing fee?

### **Background and Evidence**

The 10 Day Notice is dated February March 14, 2017 and claims outstanding rent of \$850.00 due on March 1, 2017. The tenant confirmed that she received the 10 Day Notice on March 14, 2017 when she found it posted on her door. The tenant filed her application to dispute the 10 Day Notice on March 16, 2017.

A copy of the tenancy agreement was in evidence. This tenancy began in October, 2016 with a monthly rent of \$850.00 due on the first of each month. A security deposit

of \$425.00 was paid at the beginning of the tenancy and remains in the landlord's possession.

The landlord's managers testified that the tenant has not paid rent for either March or April, 2017. The tenant agrees that this is the case.

The tenant noted that the effective end of tenancy date on the landlord's 10 Day Notice was incorrect. The landlord later sent the tenant a correction of the effective date.

The tenant also alleges some unspecified harassment by the landlord.

The tenant also complained that the rental unit was not cleaned when she moved in. However, there was no application concerning the damage deposit or other monies claimed by the tenant against the landlord before me at this hearing.

### **Analysis**

Based on the testimony of both parties, I find that the tenant was served with the 10 Day Notice on March 14, 2017. The 10 Day Notice indicates an outstanding amount of \$850.00 as of the date of the notice. The landlord's agent provided affirmed testimony that this amount, along with another \$850.00, remains outstanding. The tenant agreed. Accordingly, I also find that the tenant has failed to pay rent for March and April, 2017.

Section 46(5) of the Act provides that if a tenant has not paid outstanding rent in full or applied to dispute a 10 Day Notice within five days of receipt of the 10 Day Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must vacate the rental unit by that date.

Although this tenant applied to dispute the 10 Day Notice within the allotted time, she has not offered any basis for cancelling the 10 Day Notice. In fact she concedes that she owes March and April's rent. Accordingly, I uphold the 10 Day Notice and dismiss the tenant's application without leave to reapply.

This tenancy therefore ended on March 24, 2017, the corrected effective date on the 10 Day Notice. Section 53 of the Act provides that incorrect effective dates are automatically corrected. The tenant, and anyone on the premises, was required to vacate the premises by that date. As this has not occurred, I find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the Act. I find that the landlord's 10 Day Notice complies with section 52 of the Act.

### **Conclusion**

I grant an order of possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this order, it may be filed and enforced as an order of the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the Act.

Dated: April 24, 2017

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Residential Tenancy Branch