



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FF, CNC, CNR, MNDC

### Introduction

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated April 5, 2017
- b. An order cancelling a one month Notice to End Tenancy dated April 3, 2017
- c. A monetary order in the sum of \$1760
- d. An order that the landlord comply with the Act, regulation and/or the tenancy agreement
- e. An order that the tenant recover the cost of the filing fee

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order of Possession
- b. An order to recover the cost of the filing fee

The tenant failed to appear at the scheduled start of the hearing. The telephone line conference line remained open and the phone system was monitored for ten minutes. The tenant failed to appear. I then proceeded with the hearing.

On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the one month Notice to End Tenancy was served on the Tenant by placing it in his mailbox on April 3, 2017. I find that the 10 day Notice to End Tenancy was served on the Tenant by placing it in the mailbox on April 5, 2017. The landlord was not able to provide evidence of service of the Landlord's Application for Dispute Resolution. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated April 5, 2017?

- b. Whether the Tenant is entitled to an order cancelling the one month Notice to End Tenancy dated April 3, 2017?
- c. Whether the tenant is entitled to an order that the landlord comply with the Act, regulation and/or the tenancy agreement?
- d. Whether the Tenant is entitled to a monetary order and if so how much?
- e. Whether the tenant is entitled to recover the cost of the filing fee?
- f. Whether the landlord is entitled to an Order for Possession?
- g. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into an oral tenancy agreement that provided that the tenancy would start on June 1, 2015. The rent is \$1575 per month payable in advance on the first day of each month. The tenant did not pay a security deposit. The tenant continues to reside in the rental unit. .

### Tenant's Application:

The Tenant failed to appear at the hearing. As a result I ordered that the application of the Tenant be dismissed without liberty to re-apply.

### Determination and Orders:

I determined that the landlord has established sufficient cause to end the tenancy. I dismissed the tenant's application to cancel the one month Notice to End Tenancy. However, the Act provides that the tenant must have a clear month notice to be effective at the end of the ensuing rental payment period. The Act self corrects an improperly dated Notice. Thus the end of tenancy date is May 31, 2017.

### Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession effective May 31, 2017.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

### Landlord's Application:

I dismissed the landlord's application as he was not able to prove service of the Landlord's Application for Dispute Resolution on the Tenant.

Conclusion:

I dismissed the Tenant's Application without leave to re-apply and granted an Order of Possession effective May 31, 2017. I dismissed the landlord's application as he failed to prove service.

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: May 23, 2017

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Residential Tenancy Branch