



# 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 pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 46 (the 10 Day Notice)

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide sworn testimony and present evidence.

### Issues

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession?

### Background and Evidence

The tenancy began on June 1, 2016. The amount of rent payable was in dispute as the landlord testified the rent was only \$1350.00 per month and the tenant's claimed it was actually \$1450.00 per month. The rent was payable on the 1<sup>st</sup> day of each month. There was no written tenancy agreement. The tenant paid a security deposit of \$675.00 at the start of the tenancy.

The parties agreed that the tenants received the 10 Day Notice on April 12, 2017. As per the 10 Day Notice, the outstanding rent amount as of the date of the Notice was \$4486.00.

The landlord testified that the tenants did not pay the full amount of the arrears indicated on the 10 Day Notice within five days of being served and that the full amount is still outstanding an only a payment of \$700.00 has been received since. The landlord provided a statement of rent detailing the rent paid and outstanding balance for each month dating back to August 2016.

The tenant acknowledged the outstanding rent was not paid within 5 days after receiving the 10 Day Notice. The tenant disputed the total outstanding amount as claimed by the landlord and states they had no knowledge of the outstanding amount until they received the Notice. The tenants claim their rent is paid directly by social services and as far as they knew the rent was up to date with the exception of \$933.00 outstanding for a roommate's share who moved out in February 2017. The tenant did not provide any evidence to support his claim that rent was paid in full directly to the landlord by social services. The tenant also acknowledged that even the roommate's share that was outstanding was not paid within five days of receipt of the 10 Day Notice.

### Analysis

Section 46 of the Act requires that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Although the tenant filed an application for dispute resolution, I find the tenant's application must be dismissed as the tenant did not provide sufficient evidence in dispute of the outstanding amount as claimed by the landlord and acknowledged that at least \$933.00 of outstanding rent was not paid within 5 days after receiving the 10 Day Notice.

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 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*.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 18, 2017

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Residential Tenancy Branch