



# 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 (the "Application") under the *Residential Tenancy Act* (the "Act") seeking to cancel a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated June 27, 2017 (the "10 Day Notice").

The landlord and a landlord advocate appeared at the teleconference hearing and provided affirmed testimony. The hearing was held by telephone conference call and began promptly at 9:30 a.m., Pacific Time, on this date, September 12, 2017. The line remained open while the phone system was monitored for 12 minutes and the only participants who called into the hearing during this time were the landlord and the landlord advocate. As the applicant tenant did not attend the hearing and after the ten minute waiting period at 9:40 a.m. Pacific Time, the tenant's application was **dismissed without leave to reapply**. As the tenant did not attend the hearing, I consider the 10 Day Notice to be undisputed. The landlord affirmed that the 10 Day Notice was served on the tenant personally on June 27, 2017 and had an effective vacancy date of July 7, 2017.

### Background and Evidence

The landlord confirmed that a verbal tenancy began in May 2016 and that monthly rent was \$1,000.00 per month and due on the first day of each month. The landlord also affirmed that the tenancy was a residential tenancy and not a commercial tenancy as claimed by the tenant in the tenant's application for dispute resolution.

The landlord testified that the tenant has failed to pay rent and utilities as indicated on the 10 Day Notice and did not pay the amount listed on the 10 Day Notice and that the rental unit continues to be occupied.

### Analysis

Based on the landlord's documentary evidence and the landlord's undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

The landlord affirmed that the rental unit continues to be occupied. Section 55 of the *Act* states:

#### **Order of possession for the landlord**

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

(a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**

(b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[My emphasis added]

Given the above and after reviewing a copy of the 10 Day Notice, which had an effective vacancy date of July 7, 2017 and which I find complies with section 52 of the *Act*, and pursuant to section 55 of the *Act*, I must grant an order of possession. Therefore, I grant the landlord an order of possession effective **two (2) days** after service on the tenant. I find the tenancy ended on July 7, 2017 which was the effective vacancy date listed on the 10 Day Notice.

#### Conclusion

The tenant's application is dismissed as the tenant failed to attend the hearing as scheduled.

I find the tenancy ended on July 7, 2017 which is the effective vacancy date listed on the 10 Day Notice.

The landlord is granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, except as otherwise provided under the *Act*, and 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: September 12, 2017

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Residential Tenancy Branch