



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MNDC, FF

### Introduction

This hearing convened as a result of cross applications. In the Tenant's Application for Dispute Resolution, filed August 10, 2017 she sought to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on August 4, 2017 (the "Notice"), a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, or the tenancy agreement and to recover the filing fee. The Landlord filed a cross application seeking an Order of Possession based on the Notice as well as recovery of the filing fee.

This matter was set for hearing by telephone conference call at 9:00 a.m. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Landlord.

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

#### **Commencement of Hearing:**

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

#### **Consequences of not attending the hearing**

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 Tenant did not attend the hearing by 9:10 a.m., and the Landlord appeared and was ready to proceed, I dismiss the Tenant's claim without leave to reapply.

### Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Should the Landlord recover the filing fee?

### Background Evidence

The Landlord advised that the monthly rent payable was \$1,100.00 per month.

He stated that the Tenant failed to pay rent for August 2017 such that he issued the Notice on August 4, 2017 and posted the Notice to the rental unit door on August 4, 2017. Section 90 of the *Act* provides that documents are deemed served three days after posting to the door such that I find the Tenant was served the Notice as of August 7, 2017.

The Notice informed the Tenant she had five days in which to pay the outstanding rent or file for dispute resolution. The Tenant applied for Dispute Resolution on August 10, 2017.

The Landlord confirmed that the Tenant remains in the rental unit, and has failed to pay the outstanding rent for August as required by the Notice, as well she failed to pay rent for September and October 2017.

### Analysis and Conclusion

I find that the Notice complies with section 52 of the *Residential Tenancy Act*. Having dismissed the Tenant's Application to cancel the Notice, I must grant the Landlord an Order of possession pursuant to section 55(1) of the *Residential Tenancy Act*, which reads as follows:

#### **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.

**The Order of Possession will be effective two (2) days after service.** The Landlord must serve the Order on the Tenant and may file and enforce the Order in the B.C. Supreme Court.

As the Landlord has been successful in his application, I grant him recovery of the filing fee. Pursuant to section 72(2)(b) of the *Act*, I authorize the Landlord to retain \$100.00 from the Tenant's security deposit as payment of this amount.

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: October 30, 2017

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Residential Tenancy Branch