



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, DRI, CNR, ERP, FF

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord's 10 Day Notice pursuant to section 46;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- a determination regarding their dispute of rent increase by the landlord pursuant to section 43; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

Before the hearing, the tenants amended their application to withdraw their application to recover their filing fee. They did so as no filing fee was paid by the tenants for this application since they obtained a fee waiver for their application.

The tenants did not attend this hearing, although I waited until 9:47 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord and his property manager attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. In accordance with the Residential Tenancy Branch's Rules of Procedure, I proceeded to hear this matter in the tenants' absence.

The landlord testified that he handed Tenant CZ a 10 Day Notice on September 11, 2017, a copy of which was entered into written evidence for this hearing by the tenants. Based on the undisputed sworn testimony of the landlord, I find that the tenants were served with the landlord's 10 Day Notice in accordance with section 88 of the *Act* on September 11, 2017.

As the landlord confirmed that the tenants handed him a copy of their application for dispute resolution on September 12, 2017, I find that the landlord was duly served with the dispute resolution hearing package by the tenants in accordance with section 89 of the *Act*, on that date.

#### Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Should an order be issued regarding any of the other items listed in the tenants' application?

#### Background and Evidence

This periodic tenancy began on August 1, 2017. Monthly rent was set at \$800.00, payable in advance on the first of each month.

The landlord testified that the tenants have paid no portion of the \$800.00 in rent identified as owing in that 10 Day Notice. His property manager testified that the tenants appear to be in the process of vacating the rental unit, and may have already left the rental unit. As they remain uncertain at this stage as to whether the tenants have vacated the rental unit, the landlord and his property manager requested the issuance of an Order of Possession to be used if necessary.

#### Analysis

Since the tenants did not attend the hearing, I dismiss their application without leave to reapply.

Section 46(1) of the *Act* establishes how a landlord may end a tenancy for unpaid rent "by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice." Section 46(2) of the *Act* requires that "a notice under this section must comply with section 52 [*form and content of notice to end tenancy*].

Section 55(1) of the *Act* reads as follows:

**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.*

As I have dismissed the tenants' application and I am satisfied that the landlord's notice complied with section 52 of the *Act*, I issue an Order of Possession to the landlord in accordance with section 55 of the *Act*.

#### Conclusion

I dismiss the tenants' application in its entirety without leave to reapply. I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). 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: October 31, 2017

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Residential Tenancy Branch