



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, FFT

### Introduction

This hearing was convened in response to the tenant's application parties pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

The tenant requested:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other.

### Issue(s) to be Decided

Is the tenant entitled to have the 10 Day Notice to End Tenancy set aside? If not, is the landlord entitled to an Order of Possession based on the 10 Day Notice?

Is the tenant entitled to recover the filing fee for this application?

### Background and Evidence

The landlords' testimony is as follows. This tenancy began on August 17, 2011, with monthly rent set at \$900.00, payable on the first of each month. The landlord testified that the tenant is consistently late in paying the rent. The landlord testified that she served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on January 27, 2018 for rent that was due on January 1, 2018. The landlord testified that

later that day the tenant attempted to pay her for February's rent and was trying to neglect paying her for January. The landlord testified that she always issues a receipt when the tenant pays cash. The landlord testified that the tenant cannot produce a receipt for January's rent because he hasn't paid any rent for January. The landlord testified that the tenant hasn't paid rent for February or March 2018 either. The landlord requests an order of possession.

The tenant gave the following testimony. The tenant testified that he has not paid the rent for February or March. The tenant testified that he won't pay the landlord unless he gets a receipt. The tenant testified that the landlord is incorrect in her allegation and that he made numerous times to pay her.

### Analysis

The tenant conceded that he has not paid the rent for "a couple of months" but only because the landlord refuses to accept it. I find the versions provided by the parties were in stark contrast to one another. I found the tenant's testimony to be disjointed, illogical and simply not believable. Alternatively, the landlord provided clear, concise and credible testimony. The landlord provided documentation showing that receipts were given on a regular and consistent basis. Based on the testimony before me, and on a balance of probabilities, I find that the tenant has not paid the rent as required and that the tenancy must come to an end.

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.

I find that the 10 Day Notice complies with section 52 of the *Act* and that despite the tenants' application to set it aside, they have failed to provide sufficient evidence to do so.

The landlord has provided sufficient evidence to be granted an order of possession pursuant to section 55 of the Act.

I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

### Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlords effective **two (2) days after service on the tenants**. Should the tenant or anyone on the premises 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: March 12, 2018

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Residential Tenancy Branch