



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OPR, MNR, MDSD & FF

The Application for Dispute Resolution filed by the Tenant makes a claim for an order to cancel a one month Notice to End Tenancy dated April 4, 2018.

The Application for Dispute Resolution filed by the landlord claims an Order of Possession on the basis on non payment of rent.

The tenant(s) failed to appear at the scheduled start of the hearing which was 9:00 a.m. on June 6, 2018. A representative of the landlord and the landlord were present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenant failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The representative of the landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses. On the basis of the solemnly affirmed evidence a decision has been reached.

I find that the one month Notice to End Tenancy was served on the Tenant by posting on April 4, 2018. I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on April 10, 2018. The landlord was not able to provide sufficient evidence of service of the landlord's application on the Tenant.

### Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated April 10, 2018?
- b. Whether the landlord is entitled to an Order for Possession?

Background and Evidence:

The tenant has lived the rental unit for the last 10 or 11 years. The present rent is \$700 per month payable in advance on the first day of each month. The parties do not have a written tenancy agreement.

In March 2018 the landlord received a notice from the Municipality that the rental unit did not comply with regulations and he was ordered to decommission it. In late March he sent a letter to the tenant advising him he must leave. The landlord was then advised that a formal one month Notice to End Tenancy was required and the Notice in the approved form was served of the Tenant on April 4, 2018.

The tenant failed to pay the rent for April and May 2018. The tenant vacated the rental unit at the end of May.

Tenant's Application:

The tenant failed to attend the hearing. The landlord was present and ready to proceed. Rule 7.3 of the Rules of Procedure provides as follows:

**7.3 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 failed to appear and the landlord was present I ordered that the application of the Tenant to cancel the one month Notice to End Tenancy be dismissed without leave to re-apply.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession effective immediately upon service of the Order of Possession on him. .

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Landlord's Application:

I dismissed the landlord's application with leave to re-apply as the landlord failed to present sufficient evidence of serving the tenant.

**This decision is final and binding on the parties.**

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: June 06, 2018

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Residential Tenancy Branch