



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution under the Residential Tenancy Act (the “Act”). The tenant is seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10-Day Notice”) pursuant to Section 46(4) and reimbursement of the cost of the filing fee pursuant to Section 72.

The matter was set for hearing by telephone conference call at 1:30 PM on May 29, 2018. The landlord attended with a translator KL. The tenant did not attend although I left the teleconference hearing connection open for ten minutes to enable him to call. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The Notice of Hearing and supporting documents were filed by the tenants on April 30, 2018 and subsequently served upon the landlord by registered mail. The landlord acknowledged service of the documents and appeared at the hearing.

### Issues to be Decided

- Is the tenant entitled to cancellation of the 10-Day Notice and reimbursement of the filing fee pursuant to Sections 46(4) and 72 of the *Act*?
- Is the landlord entitled to an Order of Possession pursuant to Section 55(1) of the *Act*?

### Background

The landlord provided uncontradicted evidence regarding the tenancy. The parties entered into a fixed term residential tenancy agreement commencing February 1, 2017

ending January 31, 2018. The agreement states the tenant must vacate the unit at the end of the tenancy. Both parties initialed this section of the agreement.

Monthly rent is \$2,500.00 payable on the first of the month. The tenant paid a security deposit of \$1,250.00 which is held by the landlord. The landlord submitted as evidence a ledger showing all payments made by the tenant from the start of the tenancy to May 2018. At the time of the hearing, rent for three months (March, April and May 2018) was owing in the amount of \$7,500.00 and the tenant had not vacated the premises.

The landlord submitted the 10-Day Notice dated April 16, 2018 as evidence requiring the tenant to vacate the premises on April 26, 2018. The 10-Day Notice was served on the tenant by registered mail on April 16, 2008. The landlord provided Canada Post tracking numbers to support the evidence of service by registered mail.

Section 90 of the *Act* states that documents served by registered mail are deemed served on the 5<sup>th</sup> day after mailing. Pursuant to Section 88 and 90 of the *Act*, I find the tenant was served with the 10-Day Notice on April 21, 2018. The effective date of the 10-Day Notice is corrected to April 31, 2018.

### Analysis

I accept the landlord's uncontested evidence that the tenant has not paid rent for the months of March, April and May 2018 and the amount of \$7,500.00 is owing.

To be effective, the 10-Day Notice must comply with the provisions of Section 52. I find the 10-Day Notice complies with Section 52 of the *Act*.

I find the 10-Day Notice was properly served upon the tenants on April 21, 2018, pursuant to Sections 88 and 90 of the *Act*.

A tenant may dispute a notice under Section 45 by making an application for dispute resolution within ten days after the date the tenant receives the notices. As the tenant has failed to appear at this hearing or submit any testimony or evidence, I dismiss the tenant's request to cancel the 10-Day Notice as well as his claim for reimbursement of the filing fee.

Pursuant to Section 55(1), the director must grant to the landlord an Order of Possession of the rental unit if the landlord's notice to end tenancy complies with

Section 52 and the tenant's application is dismissed. I therefore grant the landlord an Order of Possession.

As the tenants did not attend the hearing and no evidence was entered or submissions made, I Order their application dismissed without leave to reapply.

### Conclusion

The application to cancel the 10-Day Notice by the tenant and for reimbursement of the filing fee is dismissed without leave to reapply.

I grant the landlord an Order of Possession which is effective two days after service on the tenant.

This Order must be served on the tenants.

If the tenants fail to comply with this Order, the landlord may file the Order with the Supreme Court of British Columbia to be enforced as an Order of that Court.

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 21, 2018

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Residential Tenancy Branch