



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR

### Introduction

This is an Application for Dispute Resolution (the “Application”) brought by the Tenant requesting cancellation of a 10-Day Notice to End Tenancy for Unpaid Rent.

The Landlord appeared for the scheduled hearing. The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. in order to enable the Tenant to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been 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 Landlord was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

### Issues to be Decided

Is the Tenant entitled to a cancellation of the 10-Day Notice to End Tenancy, pursuant to section 46 of the Residential Tenancy Act (“Act”)?

If not, is the Landlord entitled to an Order of Possession, pursuant to section 55 of the Act?

### Background and Evidence

The Tenant did not file any documentary evidence in support of his claim, and the Landlord did not submit any evidence of the 10-Day Notice to End Tenancy for my consideration. He stated that the Tenant paid the May rent in the month of June, and

that there are more arrears that have since accrued. The Landlord would like an Order of Possession.

### Analysis

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend a 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 call into the conference call by 11:10 a.m., I find the Tenant has not presented the merits of this Application which is hereby **dismissed**.

Section 55(1) of the *Act* states that if a tenant makes an Application to dispute a Notice the Arbitrator **must** grant an Order of Possession if the Notice complies with the Act and the tenant's application is dismissed.

The burden of proof falls to the Landlord to prove that the Notice was properly completed, is legally valid and was properly served on the Tenant. Section 52 of the Act sets out the legal requirements for a Notice to End Tenancy; as no evidence was submitted, there is insufficient proof that the Notice served on this Tenant was in compliance with section 52 in form and content. The Landlord may make an application to request an Order of Possession by filing the required forms and evidence with the Residential Tenancy Branch.

### Conclusion

For the reasons set out above, the Tenant's Application to cancel the Notice to End Tenancy is hereby dismissed without leave to re-apply.

I make no finding of fact with respect to the Landlord's 10-Day Notice to End Tenancy for Unpaid Rent, which was the subject of this dispute.

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: July 12, 2018

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Residential Tenancy Branch