



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, MT

### Introduction

The tenant filed an application for dispute resolution on August 7, 2018, pursuant to section 59 of the *Residential Tenancy Act* (the “Act”) and sought to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”), and an extension of time to file the application for dispute resolution. This is my decision in respect of the tenant’s application.

The landlord’s agent attended the hearing before me, was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant did not attend.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

I note that section 55 of the Act requires that when a tenant applies for dispute resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the application is dismissed and the landlord’s notice to end tenancy complies with the Act.

### Issues to be Decided

1. Is the tenant entitled to an extension of time to file an application for dispute resolution?
2. Is the tenant entitled to an order to cancel the Notice?
3. If the tenant is not entitled to an order to cancel the Notice, is the landlord entitled to an order of possession?

### Background and Evidence

The hearing commenced at 11:00 a.m., Pacific Standard Time, and the landlord's agent (referred to as the "landlord" in this section) appeared at the hearing. The tenant did not attend at the hearing, which concluded at 11:11 a.m.

The landlord testified that he issued the Notice on August 4, 2018, for unpaid rent. The Notice was served by being attached on the tenant's door, pursuant to section 88 (g) of the Act. A copy of the Notice was submitted into evidence as part of the tenant's application. The landlord further testified that the tenant has not paid rent for July, August or September 2018, and that they have not heard from her in a few weeks.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Where a tenant applies to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent. Pursuant to section 46 of the Act, the Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days of service. The Notice also explains that the tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution. While the tenant filed to dispute the Notice within the statutory timelines, she failed to attend the hearing.

The landlord testified that the tenant did not pay rent when it was due, and has not paid rent for July, August or September 2018.

Taking into consideration the evidence and the unchallenged testimony of the landlord, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving the grounds on which the Notice is based. I find that the tenant failed to pay rent when due, in breach of the Act and tenancy agreement.

Pursuant to sections 46 and 55 of the Act, I dismiss the tenant's application and grant an order of possession to the landlord. The landlord must serve the tenant with the order, which is effective two (2) days from service.

### Conclusion

I dismiss the tenant's application in its entirety, without leave to reapply.

Pursuant to sections 56 and 55 of the Act, I hereby grant the landlord an order of possession, which must be served on the tenant and is effective two days from the date of service. The order of possession may be filed in the Supreme Court of British Columbia and enforced as a judgment or an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: September 27, 2018

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Residential Tenancy Branch