



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SUTTON GROUP WESTCOAST REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, PSF  
OPRM-DR, FFL

### Introduction

This teleconference hearing was scheduled in response to applications by both parties under the *Residential Tenancy Act* (the “Act”). The Tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), and for an Order for the Landlord to provide services or facilities as required by the tenancy agreement or law.

The Landlord applied through the Direct Request process for an Order of Possession based on a 10 Day Notice, for a Monetary Order for unpaid rent, and for the recovery of the filing fee paid for the Application for Dispute Resolution. As the Tenant also filed an application, both files were scheduled to be heard together at a participatory hearing.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, while no one called in for the Tenant during the approximately 15-minute hearing. The Landlord was affirmed to be truthful in his testimony.

The Landlord stated that he did not receive the Notice of Dispute Resolution Proceeding package regarding the Tenant’s application and also did not receive any evidence from the Tenant. The Landlord became aware of the Tenant’s hearing from the *Residential Tenancy Branch* when the applications were scheduled to be heard together.

The Landlord testified that he served the Tenant with the Notice of Dispute Resolution Proceeding package regarding the Landlord’s application in person, along with copies of the Landlord’s evidence. I find that the Tenant was duly served with the Notice of Dispute Resolution Proceeding package regarding the Landlord’s application and the Landlord’s evidence, in accordance with Sections 88 and 89 of the *Act*.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Preliminary Matters

During the hearing, the Landlord clarified the company name of the Landlord. As both Applications for Dispute Resolution named a different party as Landlord, this was amended to the company name as stated on the tenancy agreement. This amendment was made pursuant to Section 64(3)(c) of the *Act*.

### Issues to be Decided

Is the Landlord entitled to an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent?

Is the Landlord entitled to a Monetary Order for unpaid rent?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The Landlord provided undisputed testimony regarding the tenancy. The tenancy began on February 25, 2018. Rent was initially set at \$1,100.00 per month, but rent was later adjusted to \$995.28 due to cable and internet being included. Rent is due on the first day of each month. A security deposit of \$550.00 was paid at the outset of the tenancy. The tenancy agreement was submitted into evidence and confirms the details as stated by the Landlord.

On October 3, 2018, the Landlord served the Tenant with a 10 Day Notice in person. The Landlord submitted a Proof of Service form into evidence which was signed by a witness confirming that the notice was delivered in person on October 3, 2018.

The 10 Day Notice, dated October 3, 2018, states that \$2,985.84 in rent was unpaid as of October 1, 2018. The effective end of tenancy date of the 10 Day Notice was stated as October 16, 2018.

The Landlord initially applied for rent for August, September and October 2018, but filed an amendment on November 2, 2018 to add rent for November 2018. He testified that no amount of money has been paid towards rent owing for August, September, October or November 2018.

The Landlord stated that they are owed \$3,981.12 for four months of rent. The account statement was submitted into evidence and shows the rent payments and balance since the beginning of the tenancy. The statement confirms the amount owing as stated by the Landlord.

### Analysis

As stated by Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure*, when a party does not attend the hearing, their application may be dismissed. As the Tenant did not attend the hearing that was based on his application, the Tenant's application to cancel the 10 Day Notice will not be considered. I also find that the Tenant did not serve the Landlord with the Notice of Dispute Resolution Proceeding package as required.

Based on the testimony and evidence of the Landlord, I find that the 10 Day Notice, dated October 3, 2018, was issued in accordance with Section 46(1), as rent was not paid as due on the first of the month. Upon review of the 10 Day Notice, I also find it to be in compliance with Section 52 of the *Act*.

As I find that the 10 Day Notice is valid, and therefore upheld, the Landlord is entitled to an Order of Possession, pursuant to Section 55(1) of the *Act*. I grant the Landlord a two-day Order of Possession, to be served on the Tenant.

I also accept the Landlord's testimony and evidence the months in which rent was unpaid and find that the Landlord is entitled to the recovery of the rent owed. In accordance with Section 26 of the *Act*, a tenant must pay the rent when it is due.

As the Landlord was successful in his Application, I also award the recovery of the filing fee in the amount of \$100.00, pursuant to Section 72(1) of the *Act*. In accordance with Section 72(2) of the *Act*, the Landlord may retain the security deposit towards compensation owed.

Pursuant to Section 67 of the *Act*, the Landlord is granted a Monetary Order in the amount outlined below:

August 2018 rent	\$995.28
September 2018 rent	\$995.28
October 2018 rent	\$995.28
November 2018 rent	\$995.28
Filing fee	\$100.00
<i>Less security deposit</i>	<i>(\$550.00)</i>
<b>Total owing to Landlord</b>	<b>\$3,531.12</b>

### Conclusion

The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

Pursuant to Section 55 of the *Act*, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$3,531.12** for rent owed for August, September, October and November 2018, and for the recovery of the filing fee for this application. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: November 20, 2018

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Residential Tenancy Branch