



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, ERP

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") to cancel a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated October 25, 2018 ("10 Day Notice") and for emergency repairs for health or safety reasons.

An agent for the landlord ("agent") and the daughter of the landlord appeared at the teleconference hearing. The hearing was held by telephone conference call and began promptly at 9:30 a.m., Pacific Time, on this date, November 27, 2018. The line remained open while the phone system was monitored for 16 minutes and the only participants who called into the hearing during this time were the agent and the daughter of the landlord. As the applicant tenant did not attend the hearing and after the ten minute waiting period at 9:40 a.m. Pacific Time, the tenant's application was **dismissed without leave to reapply**. As the tenant did not attend the hearing, I consider the 10 Day Notice to be undisputed.

### Preliminary and Procedural Matter

The agent provided an email address for the landlord at the outset of the hearing which was confirmed by the undersigned arbitrator. The agent confirmed their understanding that the decision would be emailed to the landlord and to the tenant and that the order of possession would be emailed to the landlord.

### Background and Evidence

The agent affirmed that the 10 Day Notice was served on the tenant by posting the tenant's door on October 25, 2018 and had an effective vacancy date of November 7,

2018. The amount listed as owed was \$1,100.00 due October 1, 2018. The agent stated that the tenant has failed to pay rent as claimed. The landlord is seeking an order of possession as soon as possible as the tenant has also threatened the landlord's daughter with a knife and as a result the police were called and a restraining order was placed on the tenant not to attend the residence without police present according to the agent.

### Analysis

Based on the undisputed documentary evidence and the unopposed testimony provided during the hearing, and on the balance of probabilities, I find the following.

The agent testified that the tenant continues to occupy the rental unit by having personal items and has not paid rent as indicated on the 10 Day Notice. Section 55 of the *Act* states:

#### **Order of possession for the landlord**

**55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if**

**(a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and**

**(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[My emphasis added]

Given the above and after reviewing a copy of the 10 Day Notice, which had an effective vacancy date of November 7, 2018 and which I find complies with section 52 of the *Act*, and pursuant to section 55 of the *Act*, I must grant an order of possession. Therefore, I grant the landlord an order of possession effective **two (2) days** after service on the tenant. I find the tenancy ended on November 7, 2018 which was the effective vacancy date listed on the 10 Day Notice.

Conclusion

The tenant's application is dismissed as the tenant failed to attend the hearing as scheduled.

The tenancy ended on November 7, 2018 which was the effective vacancy date listed on the 10 Day Notice.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, except as 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 *Residential Tenancy Act*.

Dated: November 27, 2018

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Residential Tenancy Branch