



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

CNR

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated January 13, 2019 pursuant to section 46;

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 9:40 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord, the landlord's agent, and the landlord's advocate attended the hearing and were given a full opportunity to be heard, to present evidence, and to make submissions.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord, the landlord's agent, the landlord's advocate, and I were the only parties who had called into this teleconference.

Rule 7.1 of the Rules of Procedure provides as follows:

**7.1 Commencement of the hearing:** The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, **in the absence of any evidence or submissions from the applicant tenants, I order the tenants' application dismissed without liberty to reapply.** I make no findings on the merits of the matter.

Section 55 of the Act provides that if a tenant applies to dispute a notice to end tenancy, an Arbitrator is required to issue an Order of Possession if the tenant's application is dismissed, and if the notice complies with section 52 of the Act

Section 52 of the Act outlines the form and content required for a notice to end tenancy issued under the Act. I have reviewed the 10 Day Notice dated January 13, 2019 and find it complies with section 52 of the Act in form and content.

I have dismissed the tenants' application to dispute the 10 Day Notice and found the 10 Day Notice complies with section 52 of the Act. Therefore, pursuant to section 55 of the Act, I issue the landlord an Order of Possession for the rental unit.

I also note that I accept the testimony of the landlord that the tenants had no authority to withhold rent and that the tenants never paid the outstanding rent. Therefore, section 46(3) and 46(4)(a) of the Act do not apply.

I grant the landlord an Order of Possession effective two days after service on the tenant, as the effective date of the 10 Day Notice has passed and the tenants have not paid rent for the month of January 2019.

### Conclusion

The tenants' application is dismissed in its entirety, without leave to re-apply.

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(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: February 26, 2019

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Residential Tenancy Branch