



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

CNR, MNDCT, RPP, FFT

### Introduction, Preliminary Matters and Analysis

This hearing dealt with two Applications for Dispute Resolution (“applications”) by the tenant seeking remedy under the *Residential Tenancy Act* (“Act”). In one application, the tenant is seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 10, 2019 (“10 Day Notice”) and to recover the cost of the filing fee. In the second application, the tenant has applied for a monetary order in the amount of \$5,990.00 for compensation for damage or loss under the *Act*, regulation or tenancy agreement, for the return of their personal property, and to recover the cost of the filing fee.

This matter was set for hearing by telephone conference call at 9:30 a.m. Pacific Time on this date, May 27, 2019. The line remained open while the phone system was monitored for the duration of the hearing of 34 minutes and the only participant who called into the hearing during this time was the respondent landlord. The landlord was affirmed and requested an order of possession as the tenant had left personal property in the rental unit.

In this case, the tenant made an application to dispute the 10 Day Notice and for a secondary monetary claim and the return of personal property. I find it is reasonable to conclude that in the absence of the tenant, and after the mandatory 10 minute waiting period, that the tenant is no longer disputing the 10 Day Notice. Furthermore, Rule 7.3 of the Residential Tenancy Branch (“RTB”) Rules of Procedure (“Rules”) applies and states:

#### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the 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.**

[Emphasis added]

Therefore, as the landlord respondent attended the hearing and was ready to proceed and the tenant applicant failed to attend the hearing, I dismiss both of the tenant's applications without leave to reapply.

Since I have dismissed both of the tenant's application, I find it is not necessary to consider the merits of the 10 Day Notice. However, I find that I must consider whether the landlord has met the statutory requirements under the *Act* to end the tenancy. I accept the undisputed evidence of the landlord that the 10 Day Notice was completed in accordance with section 46 of the *Act*. A copy of the 10 Day Notice was filed in evidence for my review and consideration. The landlord testified that rent for April 2019 was not paid by the tenant.

I find the 10 Day Notice was completed in the approved form and the content meets the statutory requirements under section 52 the *Act*.

Further, I accept the undisputed testimony of the landlord that the tenant was served with the 10 Day Notice in compliance with the service provisions under section 88 of the *Act*. I also note the tenant acknowledged service of the 10 Day Notice in their application.

I am satisfied based on the landlord's evidence that the landlord has met the statutory requirements under the *Act* to end a tenancy. I find the tenancy ended on April 23, 2019, the effective vacancy date listed on the 10 Day Notice.

Since I have dismissed the tenant's applications, and I have found the landlord has met the statutory requirements under the *Act* to end the tenancy, I find the landlord is entitled to an order of possession pursuant to section 55 of the *Act*. Therefore, I find that the landlord is entitled to an order of possession effective **two (2) days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I do not grant either filing fee as the tenant's applications have been dismissed without leave to reapply.

Conclusion

The tenant's applications are dismissed without leave to reapply. The landlord has met the statutory requirements to end the tenancy and is granted an order of possession.

The tenancy ended on April 23, 2019, the effective vacancy date listed on the 10 Day Notice.

I do not grant the filing fees as the tenant's applications have been dismissed without leave to reapply.

This decision will be emailed to both parties. The order of possession will be emailed to the landlord for service on the tenant.

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: May 27, 2019

---

Residential Tenancy Branch