



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNR ERP FFT MT OLC RP

### **Introduction**

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

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- more time to make an application to cancel the landlords' 10 Day Notice pursuant to section 66;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlords to make repairs to the rental unit pursuant to section 33; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlords attended the hearing by way of conference call, the tenants did not. I waited until 9:40 a.m. to enable the tenants to participate in this scheduled hearing for 9:30 a.m. The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

### **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.

The landlords confirmed receipt of the tenants' Application and evidence. Accordingly, I find the landlords duly served with the tenants' Application and evidence in accordance with sections 88 and 89 of the *Act*.

The landlords provided undisputed testimony that the tenants were personally served with the 10 Day Notice. The landlord testified that the 10 Day Notice was served on March 2, 2019. The tenants indicated in their application that they were served with the 10 Day Notice on March 7, 2019. As the tenants confirmed service of the 10 Day Notice on March 7, 2019, I find that the tenants were duly served on March 7, 2019 in accordance with section 88 of the *Act*.

Rule 7.3 of the Rules of Procedure provides as follows:

### **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.

### **Issue(s) to be Decided**

Are the landlords entitled to an Order of Possession?

### **Background and Evidence**

The landlords testified regarding the following facts. This month-to-month tenancy began on February 1, 2019, with monthly rent set at \$980.00, payable on the first of each month. The landlords collected, and still hold, a security deposit of \$490.00. The tenants continue to reside in the rental unit.

The landlord served the 10 Day Notice the tenants as the tenants have not paid any rent for the months of January 2019 through to March 2019. The landlords are seeking an Order of Possession.

### **Analysis**

Section 55(1) of the *Act* reads as follows:

- 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.

**In the absence of any evidence or submissions from the tenants, I order the tenants' entire application dismissed without liberty to reapply.**

I find that the landlord's 10 Day Notice is valid, and complies with section 52 of the *Act*. Based on my decision to dismiss the tenants' application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the corrected effective date of the 10 Day Notice, March 17, 2019. As the tenants have not moved out, I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

### **Conclusion**

I dismiss the tenants' entire application without leave to reapply.

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenants**. Should the tenants or anyone on the premises 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: May 6, 2019

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Residential Tenancy Branch