



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR

### Introduction

This hearing was convened in response to the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

The tenant requested:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 9:41 a.m. to enable the tenant 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. The tenant was the applicant and served the landlord notice of this hearing and their application, accordingly; I am satisfied that the tenant was fully aware of today's hearing and the hearing proceeded and completed in their absence.

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 provided undisputed testimony that the tenant was served with the 10 Day Notice, with an effective date of May 15, 2019 on May 5, 2019 by way of

personally serving the tenant and having the tenant sign for and acknowledge receipt of the document.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession based on the 10 Day Notice?

### Background and Evidence

The landlords gave undisputed testimony regarding the following facts. This tenancy began on April 5, 2018, with monthly rent set at \$700.00, payable on the first of each month. The landlords collected, and still hold, a security deposit of \$350.00. The tenant continues to reside in the rental unit.

The landlord issued the 10 Day Notice on May 5, 2019 to the tenant, indicating an effective move-out date of May 15, 2019. A copy of the 10 Day Notice was included in the landlord's evidence as well as a Proof of Service. The landlord testified that the tenant paid \$700.00 towards the June rent to which the landlord gave the tenant a receipt "for use and occupancy only, tenancy not reinstated". The landlords testified that the tenant has still not paid the outstanding rent for May 2019 and requests 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 tenant, I order the tenant's application dismissed without liberty to reapply.** I find that the 10 Day Notice complies with section 52 of the *Act*.

Based on my decision to dismiss the tenant's 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, May 15, 2019. 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 tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

### Conclusion

As the tenant did not attend this hearing, their entire application is dismissed without leave to reapply.

I grant an Order of Possession to the landlords effective **two (2) days after service on the tenants**. Should the tenant 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: June 24, 2019

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Residential Tenancy Branch