



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VANCOUVER MANAGEMENT  
LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, CNQ, CNR, MT, LRE

### Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for unpaid rent pursuant to section 55;

The tenant applied for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord's 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit pursuant to section 49.1;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant attended the hearing late after 9 minutes past the start of the scheduled hearing time.

The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 18, 2019. The tenant confirmed receipt of this package as claimed. I accept the undisputed affirmed evidence of both parties and find that the tenant was properly served as per sections 88 and 89 of the *Act*.

The tenant after conflicting and contradictory testimony stated that he did not serve his notice of hearing package to the landlord. The tenant stated that he gave it to the Residential Tenancy Branch. As such, the tenant's entire application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

The hearing proceeded on the landlord's application only.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession as a result of a 10 Day Notice?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

This tenancy began on September 1, 2009 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated August 5, 2009. The monthly rent began at \$900.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$450.00 was paid on September 1, 2009.

Both parties confirmed the landlord served the tenant with the 10 Day Notice dated September 12, 2019 by placing it in the tenant's mailbox on September 12, 2019. It states in part that the tenant failed to pay rent of \$1,035.00 that was due on September 1, 2019 and provides for an effective end of tenancy date of September 27, 2019.

The tenant confirmed that no rent was paid as claimed by the landlord. The landlord also stated that the tenant did not pay any rent for October and November as of the date of this hearing. The tenant stated that he did not have any money and was sick. The tenant repeatedly requested more time to move-out.

### Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, both parties confirmed the landlord served the tenant with the 10 Day Notice dated September 12, 2019 by placing it in his mailbox. The tenant provided undisputed affirmed testimony that he did not pay rent as claimed by the landlord. The tenant also confirmed in his direct testimony that no rent for October and November 2019 were paid as of the date of this scheduled hearing.

I find based upon the undisputed affirmed evidence of both parties that the tenant was sufficiently served with the 10 Day Notice dated September 12, 2019 by having it placed in his mailbox. The tenant provided affirmed testimony that the 10 Day Notice was received as claimed.

I also find based upon the undisputed affirmed evidence of both parties that the tenant failed to pay rent as claimed by the landlord for September 2019. The tenant provided affirmed testimony that he did not pay any money for rent for September 2019 or any other month as of the date of this hearing. As the effective end of tenancy date has now passed, I grant the landlord an order of possession to be effective 2 days after it is served upon him.

### Conclusion

The landlord is granted an order of possession.

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: November 28, 2019

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Residential Tenancy Branch