



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes CNL-4M, CNR, FFT

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) to cancel a 4 Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit dated September 29, 2019 (4 Month Notice), to cancel a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated October 4, 2019 (10 Day Notice) and to recover the cost of the filing fee.

The landlord and a support person for the landlord MS (support person), attended the teleconference hearing. The hearing was held by telephone conference call and began promptly at 9:30 a.m., Pacific Time, on this date, November 15, 2019. The line remained open while the phone system was monitored for 11 minutes and the only participants who called into the hearing during this time were landlord and the support person. Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3 apply and state:

#### **7.1 Commencement of the dispute resolution hearing**

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

#### **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.

As the applicant tenant did not attend the hearing and after the ten-minute waiting period at 9:40 a.m. Pacific Time, the tenant's application was **dismissed without leave to reapply**. As the tenant did not attend the hearing, I consider the 10 Day Notice to be undisputed.

I have reviewed the Notice of Dispute Resolution Proceeding dated October 18, 2019 (Notice of Hearing) and have confirmed that the correct date and time of the hearing are listed. In addition, I have confirmed that the correct access codes were provided to both parties.

### Preliminary and Procedural Matter

The landlord provided their email address at the outset of the hearing. The tenant included their email address in their application. The decision will be emailed to both parties. Any orders will be emailed to the appropriate party for service on the other party.

### Background and Evidence

The landlord affirmed that the 10 Day Notice was served on the tenant by posting the tenant's door on October 4, 2019 and had an effective vacancy date of October 17, 2019. The amount listed as owed was \$1,600.00 due October 1, 2019.

The landlord stated that the tenant has failed to pay rent for October or November of 2019. The landlord is seeking an order of possession as soon as possible as the tenant continues to occupy the rental unit.

### Analysis

Based on the undisputed documentary evidence and the unopposed testimony provided during the hearing, and on the balance of probabilities, I find the following.

I accept that the tenant failed to pay rent for October 2019 in the amount of \$1,600.00 and has not paid rent since for November 2019 also. I also accept that the tenant continues to occupy the rental unit. Section 55 of the *Act* applies and states:

#### **Order of possession for the landlord**

**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.**

[Emphasis added]

Given the above and after reviewing a copy of the 10 Day Notice, which had an effective vacancy date of October 17, 2019, which I find complies with section 52 of the *Act*, and pursuant to section 55 of the *Act*, I must grant an order of possession. Therefore, I grant the landlord an order of possession effective **two (2) days** after service on the tenant. I find the tenancy ended on October 17, 2019, which was the effective vacancy date listed on the 10 Day Notice.

As the tenant's application was dismissed, the filing fee is not granted.

I do not find it necessary to consider any other aspect of the tenant's application as the tenancy ended based on the 10 Day Notice, which is valid.

Conclusion

The tenant's application is dismissed as the tenant failed to attend the hearing as scheduled.

The tenancy ended on October 17, 2019, which was the effective vacancy date listed on the 10 Day Notice.

The filing fee is not granted.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

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: November 15, 2019

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Residential Tenancy Branch