



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, MNDCT, MNRT, RR, RP, LRE, OLC, FFT

### Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 9:40 a.m. to enable the tenant to participate in this scheduled hearing for 9:00 a.m. The landlord was 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. As the tenant has chosen not to dial into the conference or submit any documentation for consideration, I hereby dismiss their application in its entirety without leave to reapply.

The landlord provided documentary evidence and undisputed testimony that the tenant was served with the 10 Day Notice, with an effective date of February 23, 2020, on February 13, 2020 by way of personal service in the presence of a witness. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the 10 Day Notice on February 13, 2020. The landlord seeks an order of possession.

#### Issue(s) to be Decided

Is landlord entitled to an Order of Possession based on the 10 Day Notice?

#### Background and Evidence

The landlord gave the following undisputed testimony. The landlord testified that the tenancy began on August 4, 2019. The parties agreed to a monthly rent of \$1500.00 per month which is due on the first of each month. The landlord testified that the tenant began falling behind in their rent in the fall of 2019. The landlord testified that at the time he issued the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on February 13, 2020; the tenant owed \$3650.00. The landlord advised that the amount as of this date is \$5250.00. The landlord testified that the tenant has not paid or moved out and seeks 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, February 23, 2020. I find that the landlord is entitled to a 2 day Order of Possession. The landlord 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 landlord 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 landlord 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: March 17, 2020

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Residential Tenancy Branch