



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROYAL LEPAGE  
and [tenant name suppressed to protect  
privacy]

## **DECISION**

Dispute Codes      CNR

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;

While the landlord's agents attended the hearing by way of conference call, the tenants did not. I waited until 11:10 a.m. to enable the tenants to participate in this scheduled hearing for 11:00 a.m. The landlord's agents 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 landlords agents provided documentary evidence and undisputed testimony that the tenants were served with the 10 Day Notice, with an effective date of February 17, 2020, on February 7, 2020 by way of personal service in the presence of a witness. The tenant's application to dispute the notice corroborates the dates and means of service as provided by the landlord. 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's agent HG gave the following undisputed testimony. HG testified that the tenancy began on June 15, 2017. The parties agreed to a monthly rent of \$4800.00 per month which is due on the first of each month which has increased to \$4992.00. HG testified that the tenants began falling behind in their rent in the fall of 2019. HG advised that the tenants have made some small partial payments but that the amount of unpaid rent as of this date is \$22,332.00. The landlord testified that the tenants have 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 sufficient disputing 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 17, 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.

Its worth noting that the landlord had applied seeking an order of possession and monetary order pursuant to file number 310000467 and were advised by the Branch

that the matters would be heard at the same time and that the documentary evidence for all matters would be also be submitted for this hearing. For some unknown reason, the file was not linked up and added to this hearing. As this was an administrative error from the Branch, the landlord will not be penalized for that. The documentary evidence has been reviewed regarding the order of possession which was corroborated by the tenant's application and submission; specifically the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The matter of the monetary order must be dealt with in the other hearing that is scheduled. The landlord's agents were advised of this is and indicated that they understood.

### 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 20, 2020

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Residential Tenancy Branch