



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes**      CNR LRE OLC

### **Introduction**

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

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order to suspend or set conditions on the landlords' right to enter the rental unit pursuant to section 70.

While the landlord PG attended the hearing by way of conference call, the tenant did not. At the outset of the hearing, I informed the landlord that I would wait until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 am. During the 11:00 a.m. hearing I confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing.

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.

**In the absence of any evidence or submissions from the applicant, I order the tenant's entire application dismissed without liberty to reapply.**

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.

The 10 Day Notice for Unpaid Rent was served on the tenant on July 2, 2020. As the Ministerial Order dated June 24, 2020 prohibits the issuance of a Notice to End Tenancy under section 46 of the *Act*, I find the 10 Day Notice dated July 2, 2020 to have no legal effect. Accordingly, the landlords will not be granted an order of possession.

The Ministerial Order can be accessed through this link:  
[https://www.bclaws.ca/civix/document/id/mo/mo/2020\\_m195](https://www.bclaws.ca/civix/document/id/mo/mo/2020_m195) .

### **Other Issues: Landlords' Application**

The landlords have filed a separate application, which is scheduled for a future hearing date of August 28, 2020 at 11:00 a.m. to deal with the landlords' application for an Order of Possession for Cause as well as monetary orders under the *Act*.

As the tenant was not in attendance, I could not confirm that the tenant consented to have the landlords' application heard earlier than the scheduled hearing date of August 28, 2020. I informed the landlord that I was unable to hear the landlords' matter as it was scheduled for a different date, and the tenant had the right to respond to the landlords' application and be heard before a decision was made.

A party to a dispute resolution hearing is entitled to know the case against him/her and must have a proper opportunity to respond to that case. As the landlords' application was scheduled for a different date, and as the tenant was not in attendance at this hearing to confirm that they consented to this application being heard, hearing the landlords' application would be a breach of the principles of natural justice and procedural fairness. Accordingly, the landlord's request to have his application heard during this hearing was dismissed. The landlord was informed that the hearing for his application would proceed as scheduled on August 28, 2020.

The landlord was not content with my decision to not hear his application during this hearing, and felt that he was denied the opportunity to be heard. The landlord was offered the contact information of the RTB in case he required further assistance with his application, which was declined.

I note the landlord's concerns that he was not given the opportunity to be heard, but I note that the landlord was given a thorough explanation of why his matter could not be heard. The landlord was also informed that both parties would receive a written decision after the hearing. Rule 6.10 of RTB Rules of Procedure states that "disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party." Rule 8.1 states that the arbitrator determines when the hearing has ended. After informing the landlord several times that this hearing was scheduled to deal with only the tenant's application, and why the landlords' future scheduled application could not be heard, I ended the hearing at 11:14 a.m.

### **Conclusion**

I dismiss the tenant's application for dispute resolution without leave to reapply.

As the Ministerial Order dated June 24, 2020 prohibits the issuance of a Notice to End Tenancy under section 46 of the *Act*, the Notice to End Tenancy dated July 2, 2020 is of no force or legal effect.

The landlords' application scheduled for August 28, 2020 was not heard, and will proceed as scheduled.

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: August 4, 2020

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Residential Tenancy Branch