



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **CNR, OLC**

### **Introduction**

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

- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities pursuant to sections 47 and 55; and
- An order for the landlord to comply with the Act, Regulations and/or tenancy agreement pursuant to section 62.

The applicant/tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord acknowledged being served with the tenants' Application for Dispute Resolution Proceedings Package, however testified he did not receive the tenants' evidence.

Rule 7.3 of the Rules of Procedure also provides that 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. Rule 7.4 states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend to present evidence, any written submissions supplied may or may not be considered. Only the evidence referred to by the landlord was used in this this decision.

### Preliminary Issue

The applicant/tenants misnamed the landlord on their application by misspelling his name. The landlord sought to have the error corrected. In accordance with section 64 of the Act, the landlord's name was corrected to the name shown on the cover page of this decision.

### Issue(s) to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities be upheld or cancelled?

### Background and Evidence

The tenants did not attend to present any evidence regarding the merits of their application for me to consider.

The landlord gave the following undisputed testimony. Rent for the unit is set at \$2,000.00 per month. Rent was paid up to and including February 2020. The tenants failed to pay rent for the month of March 2020 when it became due on March 1<sup>st</sup>. On April 10, 2020, one of the tenants sent an e-transfer of \$400.00 to the landlord as partial payment of March rent.

On June 30, 2020, the landlord personally served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities upon the tenant, DW, the only tenant who signed the tenancy agreement. The Notice states the tenants failed to pay rent in the amount of \$1,600.00 that was due on March 1, 2020. The effective (move-out) day stated on the Notice was July 10, 2020.

The landlord testified that no rent was provided to him for any of the subsequent months and that as far as he is aware, the tenants did not apply to the government for any rental assistance.

### Analysis

The tenants did not attend the hearing which was scheduled by conference call at 9:30 a.m. and concluded at 9:40 a.m. As they did not attend, they did not present evidence regarding the merits of their application for me to consider.

Section 26 of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a

portion of the rent. Based on the undisputed evidence of the landlord, I find that neither tenant had a right to deduct any portion of the rent. The tenants failed to pay the \$1,600.00 in rental arrears as of March 1, 2020, contrary to section 26 of the Act. Given this finding, I uphold the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The tenants' application to dispute the Notice is likewise dismissed without leave to reapply.

Section 55 states:

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.

I have examined the landlord's Notice and find that it complies with the form and content provisions of section 52 of the Act.

### Conclusion

As the effective date stated on the Notice has passed, I issue an Order of Possession effective 2 days after service upon the tenants. Should the tenants 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: August 10, 2020

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Residential Tenancy Branch