



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      LL: OPR, MNRL-S, MNDCL-S, FFL  
                             TT: CNR-MT, RP, LRE, OLC, CNC

### Introduction

This hearing dealt with applications from both the landlord and tenants pursuant to the *Residential Tenancy Act* (the “Act”).

The landlord applied for:

- An order of possession pursuant to section 55;
- A monetary award for damages and loss pursuant to section 67; and
- Authorization to recover their filing fee from the tenant pursuant to section 72.

The tenant applied for:

- More time to file their application pursuant to section 66;
- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46;
- An order for repairs pursuant to section 33;
- An order restricting the landlord’s right to enter the rental unit pursuant to section 70;
- An order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- Cancellation of a 1 Month Notice to End Tenancy for Cause pursuant to section 47.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Is either party entitled to any of the other relief sought?

Background and Evidence

This tenancy began in June, 2020. The monthly rent is \$1,700.00 payable on the first of each month.

The tenant failed to pay rent for the month of October 2020 and the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent on October 4, 2020. A copy of the 10 Day Notice was submitted into evidence. The tenant did not pay the full amount of the rental arrear and the landlord filed an application for dispute resolution on October 14, 2020.

The landlord testified that they served the tenant with their application for dispute resolution by registered mail but were unable to provide a valid Canada Post tracking number or any documentary evidence in support of their claim that the tenant was served.

The landlord submits that in addition to the tenant not paying any rent for the months of October, November and December, 2020 the tenant has caused damage to the rental unit door and seeks a monetary award in the amount of \$8,600.00.

Analysis

The tenants did not attend the hearing which was scheduled by conference call at 11:00am. Rule 7.3 of the Rules of Procedure 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.

Consequently, I dismiss the tenant's application in its entirety without leave to reapply.

Section 55 of the *Act* provides that:

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 dismissed the tenant's application, and I find that the landlord's 10 Day Notice complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provide the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. I accept the evidence of the landlord that the tenant was obligated to pay monthly rent in the amount of \$1,700.00 and failed to do so. Accordingly, I find that the landlord is entitled to an Order of Possession pursuant to section 55. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after service.

Section 89(1) of the Act establishes the following Special rules for certain documents, which include an application for dispute resolution:

*89(1) An application for dispute resolution,..when required to be given to one party by another, must be given in one of the following ways:*

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

I find that the landlord has provided insufficient evidence in support of their position that they have served the tenant with the application and evidence. I find the testimony of the landlord that they have sent a copy by registered mail to not be supported in any documentary materials. Based on the evidence I am not satisfied that the tenant was served in accordance with the Act, or at all.

Consequently, I dismiss the landlord's application with leave to reapply.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or any occupant 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.

The landlord's application is dismissed with leave to reapply.

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: December 29, 2020

---

Residential Tenancy Branch