



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BCIMC REALTY CORPORATION AND YALETOWN 939 HOLDINGS INC. and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes: CNR-MT

### Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for more time to make an application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 3, 2021 (10 Day Notice).

The tenant attended the teleconference hearing five minutes late and was affirmed. The hearing process was explained, and the tenant was provided with an opportunity to ask questions about the hearing process.

As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated July 7, 2021 (Notice of Hearing) and the application were considered. The tenant provided affirmed testimony that the Notice of Hearing and application were served on the landlord by email on June 8, 2021 and then again on June 14, 2021. The tenant was advised that this could not be possible as the Notice of Hearing was not created until July 7, 2021. Therefore, as I am not satisfied that the landlord was served, the tenant's application was **dismissed without leave to reapply** as the effective vacancy date has already passed, which is listed as June 14, 2021 on the 10 Day Notice. Section 66(3) of the Act applies and states:

### **Director's orders: changing time limits**

66(3) The director **must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.**  
[Emphasis added]

Given the above I will address the order of possession for the landlord in further detail below.

### Preliminary and Procedural Matters

The tenant was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The tenant was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the tenant was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The tenant did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the tenant confirmed their email address and the email address for the landlord, which was not originally indicated on the tenant's application. The tenant was advised that the decision will be sent to the parties by email.

Also, pursuant to section 64(3)(c) of the Act, the landlord's name was corrected to the name listed on the tenancy agreement. The rental unit address was also corrected to reflect the correct address listed on the 10 Day Notice as I find the tenancy agreement was missing the street number and instead only listed the unit number in the building.

### Issue to be Decided

- Is the landlord entitled to an order of possession under section 55(1) of the Act?

### Background and Evidence

As noted above, the tenant's application was dismissed due to a service issue and the effective vacancy date listed on the 10 Day Notice has passed, which was June 14, 2021.

The tenant provided no evidence that the landlord has reinstated the tenancy since the tenant filed their application.

The tenant advised of an October 19, 2021 hearing, the file number of which has been included on the style of cause. That hearing is scheduled to hear the landlord's application for an order of possession.

### Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 55(1) of the Act applies and states:

**Order of possession for the landlord**

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.**

[Emphasis added]

I have reviewed the 10 Day Notice and find that it complies with section 52 of the Act. Therefore, pursuant to section 55(1) of the Act, **I must** grant the landlord an order of possession. Therefore, **I grant** the landlord an order of possession effective 2 days after service on the tenant.

I find the tenancy ended on June 14, 2021, which was the effective vacancy date listed on the 10 Day Notice.

Given the above, this decision will impact the hearing scheduled for October 19, 2021 at 11:00 a.m., the file number of which has been included on the style of cause for ease of reference.

Conclusion

The tenant's application for more time to make an application to cancel a 10 Day Notice is dismissed due to a service issue.

The tenancy ended June 14, 2021.

The landlord is granted an order of possession effective 2 days after service on the tenant. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that court. The tenant is advised that they could be held liable for all costs related to enforcement of the order of possession.

This decision will be emailed to both parties.

The order of possession will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 14, 2021

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Residential Tenancy Branch