



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Native Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, FF

### Introduction, Preliminary and Procedural Matters-

This telephone conference call hearing was convened as the result of the tenants' application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord; and
- to recover the cost of the filing fee.

The hearing began at 11:00 a.m. Pacific Time on Thursday, January 27, 2022, as scheduled and the telephone system remained open and was monitored for 17 minutes. During this time, the tenants did not call into the hearing; however, the landlord's agent (agent) was present and ready to proceed with the hearing.

Rules 7.3 and 7.4 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.

#### **7.4 Evidence must be presented**

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 the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, **in the absence of any evidence or submissions from the tenants, I order their application dismissed, without leave to reapply.**

In addition, the agent provided affirmed testimony during the hearing. The tenants filed only the first page of the 3 page Notice. The Notice was dated June 7, 2021, with an effective date of June 20, 2021. The amount of unpaid monthly rent is listed on the 2<sup>nd</sup> page.

The agent said she did not remember serving the tenants a Notice to end the tenancy in June 2021, but said she served them one in August 2021. The agent was unable to confirm the amount of unpaid monthly rent listed on the Notice in question here and did not have the Notice in front of her for the hearing.

The agent said a property manager was in charge of the tenancies at that time.

#### Analysis and Conclusion

The tenants' application seeking cancellation of a 10 Day Notice issued by the landlord is dismissed, without leave to reapply, due to their failure to attend the hearing.

I have reviewed the one-page Notice submitted by the tenants and without a complete Notice before me, I am unable to determine whether it complies with section 52 *[form and content of notice to end tenancy]*.

The agent said she could not remember serving a Notice to the tenants in June 2021 and did not know what amount of unpaid monthly rent may or may have not been listed on the 2<sup>nd</sup> page.

For these reasons, I decline to grant the landlord an order of possession of the rental unit under section 55(1)(a).

Further, I decline to grant the landlord a monetary order under Section 55(1.1) of the Act.

The landlord is at liberty to make their own application for dispute resolution seeking vacant possession of the rental unit and monetary compensation from the tenants, based upon my dismissal of the tenants' application or other 10 Day Notices which have been issued to the tenants.

The tenants' application seeking cancellation of the Notice and recovery of the filing fee is dismissed, without leave to reapply, due to their failure to attend the hearing.

The landlords were not issued a monetary order for unpaid monthly rent or unpaid utility charges as I find the Notice is not valid.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 27, 2022

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Residential Tenancy Branch