



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1134660 BC Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution. A participatory hearing was held on March 15, 2022. The landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities; and,
- to recover the filing fee from the tenant for the cost of this application.

The landlord attended the hearing and provided affirmed testimony. The tenants did not attend the hearing. The landlord testified that he personally gave the Tenants a copy of the Notice of Dispute Resolution Proceeding on November 28, 2021. I find the Tenant's received this package this same day it was given to them in person.

The landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?

### Background and Evidence

The landlord testified that he does not know how much current rent is because the Tenants have not paid any rent since they took over ownership of the house last year. The Landlord stated he does not have a written tenancy agreement.

The landlord provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice), which was posted to the tenants' door on November 10, 2021. The 10 Day Notice does specify how much rent is owing, or when it is due.

The landlord testified that the tenants have not paid any rent since that time

### Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 46(1) of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy under this section has five days after receipt, under section 46(4) of the *Act*, to either pay rent in full or dispute the notice by filing an application for dispute resolution. When a tenant does not pay rent in full or dispute the notice, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice, as per section 46(5) of the *Act*.

In this case, the Landlord issued the Notice due to non-payment of rent. I am satisfied that the Landlord served the Tenants with the 10 Day Notice, by posting a copy to the door of the rental unit on November 10, 2021. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 3 days later. I find the Tenants received the Notice on November 13, 2021.

After reviewing the Notice provided into evidence, I note that the Landlord has failed to specify what rent is owed, and when it was due. I find the Landlord has failed to sufficiently indicate the grounds for ending the tenancy by way of this 10 Day Notice. As such, I find the Landlord has failed to properly complete the Notice, such that I could find it meets the form and content requirements under section 52 of the *Act*. Section 52 of the *Act* specifies that the Notice must clearly indicate the grounds and basis for ending the tenancy. Without the amount of rent due, I find the Landlord has not

sufficiently laid this out. Although some explanation was provided, I find that by not properly filling out the Notice, it impacted the Tenant's ability to understand and respond to the Notice. I find the Notice does not meet the form and content requirements under section 52 of the Act. As such I cancel it, and it is of no force or effect.

I have made no findings on the merits of the Notice, and if the Landlord wishes to pursue eviction, he is entitled to issue a new Notice, such that it complies with section 52 of the Act.

### Conclusion

The Landlord's application based on the Notice issued on November 10, 2021, is dismissed, in full, without leave to reapply.

The Landlord must re-issue a valid Notice, should he decide to pursue eviction.

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: March 15, 2022

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Residential Tenancy Branch