



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Devon Properties  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      CNR

### **Introduction**

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

While the landlord's agents attended the hearing by way of conference call, the tenant did not. I waited until 1:41 p.m. to enable the tenant to participate in this scheduled hearing for 1:30 p.m. The landlord's agents were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agents and I were the only ones who had called into this teleconference.

Rule 7.3 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

Accordingly, **in the absence of any submissions in this hearing from the tenant, I order the tenant's entire application dismissed without leave to reapply.**

The landlord's agents confirmed in the hearing that the tenant had moved out sometime in January 2022, and the landlord no longer requires an Order of Possession. Accordingly, no Order of Possession will be granted.

Section 55(1) and (1.1) of the *Act* reads as follows:

**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.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

A copy of the 10 Day Notice dated December 15, 2021 was provided for this hearing. I find that the 10 Day Notice complies with section 52 of the *Act*. Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1.1) of the *Act*, I find that the landlord is entitled to a monetary order in the amount of \$10,112.50 for payment of the outstanding rent.

**Conclusion**

The tenant's entire application is dismissed without leave to reapply.

I issue a \$10,112.50 Monetary Order in favour of the landlord. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: April 06, 2022