



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ONE WEST PROPERTIES CORP.  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes

CNR MT

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution (the "Application") under the *Residential Tenancy Act* (the "Act") seeking to cancel a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated March 3, 2017 (the "10 Day Notice") for more time to make an application to cancel a notice to end tenancy, and to recover the cost of the filing fee.

An agent for the named landlord company (the "agent") appeared at the teleconference hearing. The hearing was held by telephone conference call and began promptly at 11:00 a.m., Pacific Time, on this date, April 13, 2017. The line remained open while the phone system was monitored for 15 minutes and the only participant who called into the hearing during this time was the agent for the respondent named landlord company. As the applicant tenant did not attend the hearing and after the ten minute waiting period at 11:10 a.m. Pacific Time, the tenant's claim was **dismissed without leave to reapply**. As the tenant did not attend the hearing, I consider the 10 Day Notice to be undisputed. The agent stated that the 10 Day Notice was served on the tenant by posting to the tenant's door on March 3, 2017 and had an effective vacancy date of March 13, 2017.

The agent confirmed that no amount has been paid in response to the 10 Day Notice by the tenant as of the date of the hearing.

### Background, Evidence and Analysis

The agents testified that the tenant continues to occupy the rental unit. Section 55 of the *Act* 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.**

[My emphasis added]

Given the above and after reviewing a copy of the 10 Day Notice, which had an effective vacancy date of March 13, 2017 and which I find complies with section 52 of the *Act*, and pursuant to section 55 of the *Act*, I must grant an order of possession. Therefore, I grant the landlord an order of possession effective **two (2) days** after service on the tenant.

Pursuant to section 53 of the *Act*, effective vacancy dates automatically correct under the *Act*. I find that since the 10 Day Notice was posted to the tenant's door on March 3, 2017, the effective vacancy date would correct to March 16, 2017 and that the tenancy ended on that date as a result. I have used March 16, 2017 as section 90 of the *Act* states that documents posted to the door are deemed served three days after they are posted which would make the deemed service date March 6, 2017.

#### Conclusion

The tenant's application is dismissed as the tenant failed to attend the hearing as scheduled.

I find the tenancy ended on March 16, 2017 which is the corrected effective vacancy date listed on the 10 Day Notice.

The landlord is granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, except as 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: April 13, 2017

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Residential Tenancy Branch