



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FRASER MARINE DRIVE HOLDINGS  
INC 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.

The landlords' agent participated in the teleconference hearing, the tenant did not. The tenant initiated the dispute resolution process by filing the application to dispute the notice. I am satisfied that the tenant was fully aware of today's hearing and start time, accordingly; the hearing proceeded and completed in the absence of the tenant. The landlord gave sworn and written documentation to show that the tenant was served with their documentary evidence via registered mail on April 2, 2019 and deemed served five days later as per section 90 of the Act. I am satisfied that the tenant has been served with the landlord's evidence in accordance with sections 88 and 90 of the Act.

### Issue(s) to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities be cancelled? If not, should the landlord be entitled to an order of possession?

### Background and Evidence

The landlords' agent gave the following undisputed testimony. The tenancy began on October 1, 2012. The current monthly rent is \$740.00. The agent testified that the tenant withheld \$20.00 from March's rent. The agent testified that the tenant has withheld rent on several previous occasions without notice or merit. The agent testified that although the amount of unpaid rent is not a large amount, the tenant continues to contravene the Act, and the tenancy agreement by arbitrarily giving herself rent reductions without notice or justification. The agent testified that the tenants claim that the landlord overcharged for a fob deposit is incorrect. The agent testified that the fob deposit was for an additional fob as the tenant still had other means of accessing the

building and her unit. The agent testified that on March 7, 2019 the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The agent testified that the tenant made a payment of \$740.00 for April's rent to which a receipt was issued for "use and occupancy only, tenancy not reinstated". The agent testified that there are still \$20.00 rent outstanding for March 2019.

### Analysis

Section 26 of the Act addresses the issue before me as follows:

#### ***Rules about payment and non-payment of rent***

**26** (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Based on the undisputed testimony before me and the landlords supporting documentation, I find that the tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. In this case, this required the tenant to vacate the premises by March 20, 2019. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the Act, which must be served on the tenant(s). If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

The tenants' application is dismissed in its entirety without leave to reapply.

### Conclusion

The landlord is granted an order of possession. The tenant's application is dismissed in its entirety without leave to reapply.

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 30, 2019

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Residential Tenancy Branch