



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VALLEY REALTY  
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 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent attended the hearing and was 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. I also confirmed from the teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord's agent testified that the tenant served her office with a copy of the tenant's application for dispute resolution. The landlord's agent could not recall the specific date the tenant's application was served. I find that the tenant's application was served on the landlord's agent in accordance with section 89 of the *Act*.

I note that section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

### Issues to be Decided

1. Is the tenant entitled to cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46 of the *Act*?
2. If the tenant's application is dismissed and the landlord's Notice to End Tenancy is upheld, is the landlord entitled to an Order of Possession, pursuant to section 55 of the *Act*?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord's agent, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord's agent provided the following undisputed testimony. This tenancy began on September 1, 2018 and is currently ongoing. Monthly rent in the amount of \$2,000.00 is payable on the first day of each month. A security deposit of \$1,000.00 and a pet damage deposit of \$1000.00 were paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The landlord's agent testified that on March 7, 2019 a 10 Day Notice to End Tenancy for Unpaid Rent with an effective date of March 20, 2019 (the "10 Day Notice") was posted on the tenant's door. The 10 Day Notice was entered into evidence.

The landlord's agent testified that the tenant did not pay rent on March 1, 2019 when it was due. The landlord agent testified to the following rent payments made by the tenant:

- March 1, 2019: electronic funds transfer of \$1,635.00- insufficient funds- payment not received;
- March 4, 2019: payment of \$364.50- payment confirmed and received;
- March 15, 2019: payment of \$500.00- payment confirmed and received;
- March 20, 2019: payment of \$1,135.50- payment confirmed and received;
- April 1, 2019: electronic funds transfer of \$1,635.00- insufficient funds- payment not received;
- April 9, 2019: payment of \$1,200.00- payment confirmed and received;
- April 18, 2019: payment of \$836.06- payment confirmed and received; and
- May 1, 2019: no payment received.

The landlord's agent testified that March 2019's rent was not paid in full until March 20, 2019, the effective date of the 10 Day Notice.

### Analysis

I find that the 10 Day Notice was served on the tenant in accordance with section 88 of the *Act*. I find that service of the 10 Day Notice was effected on the tenant on March 10, 2019, three days after it's posting, pursuant to section 90 of the *Act*. Upon review of the 10 Day Notice I find that it complies with the form and content requirements of section 52 of the *Act*.

Section 46(1) of the *Act* states that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Section 46(4) of the *Act* states that within 5 days after receiving a notice under this section, the tenant may

- (a) pay the overdue rent, in which case the notice has no effect, or
- (b) dispute the notice by making an application for dispute resolution.

In this case the tenant had until March 15, 2019 to pay all outstanding rent; however, the tenant did not pay all of her outstanding rent until March 20, 2019. Based on the above, I dismiss the tenant's application without leave to reapply.

Section 55 of the *Act* states that 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:

- the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Since I have dismissed the tenant's application and found that the 10 Day Notice conforms to the form and content requirement of section 52 of the *Act*, I find that the landlord is entitled to a two-day Order of Possession, pursuant to section 55 of the *Act*.

Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenant**. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: May 03, 2019

---

Residential Tenancy Branch