



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNR LRE RP FFL MNDCL OPRM-DR

### **Introduction**

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for non-payment of rent pursuant to section 55;
- a monetary order for money owed, unpaid rent, and losses pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant requested:

- cancellation of the landlord’s 10 Day Notices to End Tenancy for Unpaid Rent (the 10 Day Notices) pursuant to section 46;
- an order to suspend or set conditions on the landlord’s right to enter the rental unit pursuant to section 70; and
- an order to the landlord to make repairs to the rental unit pursuant to section 33.

While the landlord and landlord’s power of attorney attended the hearing by way of conference call, the tenant did not. I waited until 11:15 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlord 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. During the hearing, I also confirmed from the online teleconference system that the landlord, landlord’s power of attorney, 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.

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

The landlord gave sworn testimony that the tenant was served with the landlord's application for dispute resolution, amendments, and evidentiary materials by way of registered mail. The landlord provided the tracking information in their evidentiary materials. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant deemed served with copies of the landlord's application, amendments, and evidentiary materials for this hearing.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to monetary compensation for unpaid rent and losses?

Is the landlord entitled to recover their filing fee for this application?

### **Background and Evidence**

The landlord provided the following undisputed, sworn testimony as the tenant did not attend the hearing. This fixed-term tenancy began on June 1, 2019, with monthly rent set at \$1,950.00, payable on the first of the month. The security deposit was set at \$975.00, which the tenant had paid along with the June 2019 rent, but was returned as non-sufficient funds. The landlord testified that the tenant has not paid any rent for June, July, or August 2019.

The landlord served the tenant with 2, 10 Day Notices to End Tenancy for Unpaid Rent, dated June 16, 2019, and July 4, 2019. The tenant disputed both notices as part of their application. The landlord is requesting an Order of Possession for Unpaid Rent, as well as the following Monetary Orders.

<b>Item</b>	<b>Amount</b>
Unpaid Rent for June 2019	\$1,950.00
Unpaid Rent for July 2019	1,950.00
Unpaid Rent for August 2019	1,950.00
Loss of Rent for September 2019	1,950.00
Projected Cost of Cleaning	299.25
Fines for Strata Violations	750.00
Projected Cost of Painting	2,600.00
Replacement of Appliances	5,578.56

Filing Fee	100.00
<b>Total Monetary Order</b>	<b>\$17,127.81</b>

The landlord provided a statement summary of the fines levied against the rental unit due to the tenant's violations. The landlord confirmed that these fines have been paid by the landlord, and the landlord is seeking reimbursement of these fines. The landlord is also seeking a monetary order for unpaid rent, as well as various projected losses associated with this tenancy.

### **Analysis**

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

- 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.

I find both that 10 Day Notices comply 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) of the *Act*, I find that this tenancy ended on the effective date of the 10 Day Notice dated July 4, 2019. As the corrected, effective date of the 10 Day Notice has passed, and as the tenant has not moved out, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. 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 landlord provided undisputed evidence that the tenant failed to pay the outstanding rent for June 2019 through to August 2019. Therefore, I find that the landlord is entitled to \$5,850.00 in outstanding rent for these months. I also find that the landlord provided undisputed evidence to support that they suffered a loss of \$750.00 due to the tenant's failure to comply with strata bylaws. Accordingly, I allow the landlord a monetary order of \$750.00 in order to recover these losses.

As the landlord was successful in their application, I find that they are entitled to recover the filing fee for this application.

As the tenant has not yet moved out of the rental unit, I find the remaining monetary claims for losses to be premature. Accordingly, I dismiss the remaining portions of the landlord's application with leave to reapply.

**Conclusion**

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

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a \$6,700.00 Monetary Order in favour of the landlord, which allows the landlord to recover the unpaid rent, fines for strata violations, and the filing fee for this application. The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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.

The remaining portions of the landlord's application are dismissed with 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: August 15, 2019

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Residential Tenancy Branch