



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, OPRM-DR, FFL

### Introduction

The landlord filed an Application for Dispute Resolution by Direct Request (the “Application”) on November 13, 2020 seeking an order of possession for the rental unit, a monetary order to recover the money for unpaid rent, and to recover the filing fee for the Application.

This participatory hearing was convened after the issuance of a December 9, 2020 Interim Decision of an Adjudicator. The Adjudicator determined that the landlord’s Application could not be considered by way of the Residential Tenancy Branch’s direct request proceedings, as had been originally requested by the landlord. The Adjudicator reconvened the landlord’s Application to a participatory hearing as they were not satisfied with the completion of the tenancy agreement.

The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on February 25, 2021. In the conference call hearing I explained the process and provided both the landlord and the tenant the opportunity to ask questions.

At the start of the hearing the tenant advised they did not receive the landlord’s prepared documentary evidence. Nor did they receive proper notice of this hearing, only learning about it via the Residential Tenancy Branch, who provided a copy of the December 9, 2020 decision to them advising of this new hearing date.

The tenant confirmed they did not provide documentary evidence in advance.

### Preliminary Matters

At the start of the hearing, the tenant advised that they finished cleaning up and removing disposal items at the rental unit, in the morning before the start of the hearing. They advised they left three keys to the unit on the countertop. This was the last time they will visit the unit and they confirmed this was the end of the tenancy.

The landlord applied for an order of possession pursuant to the 10-Day Notice to End Tenancy for Unpaid Rent (the “10-Day Notice”) they issued to the tenant on November 2, 2020.

In this hearing, the landlord accepted the end of tenancy as occurring on February 25, 2021.

Given that the tenancy has ended, the validity of the 10-Day Notice is not in issue. The landlord’s application for an order of possession stemming from the 10-Day Notice is dismissed. Pursuant to section 63(2) of the *Act*, I record this settlement of the matter in the form of an order of possession to the landlord.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

Neither party provided a copy of the tenancy agreement. In the hearing the landlord provided that the tenancy started on September 1, 2020. The rent was \$700 per month, and the tenant also paid \$50 per month for a storage locker. The tenant initially paid a security deposit amount of \$300.

The tenant stated in response that they never moved in until September 8, 2020. They also never agreed to pay for a storage locker.

The landlord presented that the tenant essentially lived in the rental unit for four months free. This follows on from no payment of rent for November, through to December, January, and February 2021. The landlord presented that the tenant asked another tenant to negotiate on their behalf with the landlord. This was an offer to receive "\$1,000 and [the tenant] will be out."

The tenant responded to say this was completely false. For each of the four months involved, the tenant added that they paid cash to the landlord. This occurred on November 2, when they received the notice to end tenancy from the landlord. They paid cash for the other months in advance, or a short time after the first of the month.

The landlord maintained that this was a falsehood. They presented that the tenant tried to conspire with other tenants to not pay rent

### Analysis

The *Act* section 26 provides that a tenant must pay rent when it is due under the tenancy agreement. A landlord must provide a tenant with a receipt for rent paid in cash.

Here, the landlord provided that the tenancy started on September 1, 2020. The tenant disputed the amount of rent they were paying and did state it was in cash. I find their account credible in that there was no single rent payable date in place since the start of the tenancy. There is no document in place to resolve this.

The landlord's submission is that at the time of this hearing the tenant had not paid rent for each of the months prior since November. The tenant stated they did pay. Minus evidence from the landlord to show that the tenant paid rent prior to November 2020, it is hard to prove otherwise that an agreed-upon amount is in place, with a fixed schedule for payment of rent.

The landlord provided only a 'Direct Request Worksheet' to outline the amounts owing. I accept the tenant's statement that they did not receive any documentary evidence from the landlord in advance of this hearing. This worksheet shows \$50 owing for October 1, 2020, and then \$750 for November 2020.

I find this is not a proper accounting ledger and there is no accuracy to the amount the landlord presents as owing from the tenant. Without such evidence to show true amounts owing, I make no award for rent recovery to the landlord. This portion of their claim is thus dismissed; however, the landlord does have leave to reapply should they wish to pursue this amount owing further.

Because they were not successful in their claim, I award no reimbursement of the Application filing fee.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** 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.

The landlord's claim for unpaid rent is 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 *Act*.

Dated: February 25, 2021

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Residential Tenancy Branch