



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPRM and CNR, LRE

### Introduction

On November 18, 2020, the Landlord submitted an Application for Dispute Resolution by way of an *ex parte* Direct Request Proceeding under the *Residential Tenancy Act* (the “Act”). The Landlord requested an Order of Possession due to unpaid rent, a Monetary Order to recover the unpaid rent, and to be compensated for the cost of the filing fee. The Landlord’s evidence for the Direct Request was reviewed and found to be incomplete; therefore, the matter was set for a participatory hearing via conference call.

On January 6, 2021, the Tenants submitted an Application for Dispute Resolution under the Act to cancel a 10-day Notice to End Tenancy for Unpaid Rent, issued in December 2020, and to suspend the Landlord’s right to enter the rental unit.

On January 12, 2021, the Tenants submitted an Application for Dispute Resolution under the Act to cancel a 10-day Notice to End Tenancy for Unpaid Rent, dated January 12, 2021, and to suspend the Landlord’s right to enter the rental unit.

The Landlord’s Application was crossed with the Tenants’ Applications and all three matters were set for a participatory hearing via conference call.

The Landlord and one of the Tenants attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

### Preliminary Matter

The Tenant stated that she would like to withdraw her request to suspend the Landlord’s right to enter the rental unit. I find that the Tenant withdrew this issue and is only proceeding with her request to cancel the Notice to End Tenancy.

### Issues to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent, dated January 12, 2021 (the “10 Day Notice”) be cancelled, in accordance with section 46 of the Act?

If the 10 Day Notice is found valid, should the Landlord receive an Order of Possession, in accordance with section 55 of the Act?

Should the Landlord receive a Monetary Order for unpaid rent, in accordance with section 67 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

Both parties agreed to the following terms of the tenancy:

The one-year, fixed-term tenancy began on July 1, 2020. The rent is \$1,400.00 and due on the first of each month. A security deposit in the amount of \$700.00 was collected from the Tenants.

The Landlord provided undisputed testimony that the Tenants were served the 10 Day Notice on January 12, 2021. The Landlord acknowledged that the amount owing on the 10 Day Notice was incorrect; however, the Landlord did not receive any payments towards rent. The effective date on the 10 Day Notice was for January 26, 2021.

The Landlord testified that the Tenants have failed to pay rent for the months of December 2020, January, February and March 2021 for a total rental arrears in the amount of \$5,600.00.

The Landlord requested, if successful with his application, that an Order of Possession be issued for April 30, 2021 to allow the Tenant(s) to find new accommodations.

The Tenant acknowledged that the Landlord’s evidence is correct, that she is working with an advocacy agency to assist her with finding a new place to live, and repayment of the outstanding rent.

### Analysis

Based on the evidence from both parties, I find that the Tenants entered into a tenancy agreement with the Landlord that required the Tenants to pay monthly rent of \$1,400.00 by the first day of each month and that the Tenants have not done so from December 2020 through to today's date. As a result, I dismiss both of the Tenants' Applications to cancel the 10 Day Notice.

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.

Section 52 of the Act requires that any Notice to End Tenancy issued by a landlord must be signed and dated by the landlord; give the address of the rental unit; state the effective date, state the grounds for ending the tenancy; and be in the approved form. I find the 10 Day Notice, issued by the Landlord on January 12, 2021, complies with the requirements set out in Section 52.

I have dismissed the Tenants' Applications and found that the 10 Day Notice is compliant with the Act. For these reasons and because the Tenants are still occupying the rental unit, I grant the Landlord an Order of Possession for April 30, 2021.

Based on the undisputed oral testimony and documentary evidence presented before me, I find that the Landlord has met the onus of proving their claim for compensation of unpaid rent, in the amount of \$5600.00.

I find that the Landlord's Application has merit and that the Landlord is entitled to recover the cost of the filing fee for this Application for Dispute Resolution, in the amount of \$100.00, pursuant to section 72 of the Act.

### Conclusion

I dismiss the Tenants' Applications for Dispute Resolution without leave to reapply.

Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective on April 30, 2021. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to Section 67 of the Act, I grant the Landlord a Monetary Order for \$5,700.00. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: March 09, 2021

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Residential Tenancy Branch