



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPR-DR, MNR-DR, FFL, CNR, RP, RR, PSF, LAT, FFT

### Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, and to recover the fee for filing an Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, for an Order requiring the Landlord to make repairs, for an Order requiring the Landlord to provide services or facilities, for an Order limiting the Landlord's right to enter the rental unit, and to recover the fee for filing an Application for Dispute Resolution.

The Landlord stated that on May 07, 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on April 22, 2021 was sent to the rental unit, via registered mail. The Landlord cited a tracking number that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

As the aforementioned documents were properly served to the Tenant, the hearing proceeded in the absence of the Tenant and the evidence was accepted as evidence for these proceedings.

The Landlord was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. She affirmed that she would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Landlord was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. She affirmed she would not record any portion of these proceedings.

### Preliminary Matter

The Landlord stated that the Tenant's Application for Dispute Resolution was served to the Landlord sometime in May of 2021.

The teleconference hearing was scheduled for 11:00 a.m. The Landlord attended the hearing at the scheduled start time. By the time the teleconference was terminated at approximately 11:18 a.m., the Tenant had not appeared.

I find that the Tenant failed to diligently pursue the Tenant's Application for Dispute Resolution and I therefore dismiss the Tenant's Application for Dispute Resolution, without leave to reapply.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary Order for unpaid rent or unpaid utilities?

### Background and Evidence

The Landlord stated that:

- this tenancy began on March 05, 2021;
- the Tenant was required to pay monthly rent of \$1,500.00 by the first day of each month;
- the Tenant did not pay any rent for April, May, June or July of 2021;
- a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, which had an effective date of April 16, 2021, was placed in the Tenant's mail slot on April 06, 2021; and
- the Tenant is still occupying the rental unit.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,500.00 by the first day of each month, that the Tenant has not paid rent for April, May, June, or July of 2021, and the tenant continues to occupy the unit.

Section 26(1) of the *Residential Tenancy Act (Act)* requires tenants to pay rent when it is due, 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. A tenant does not have the right to withhold rent because the tenant believes the landlord is not properly maintaining the rental unit. Until a tenant has authority from the Residential Tenancy Branch to withhold rent because the rental unit requires repairs, the tenant must pay rent when it is due.

As the Tenant is required to pay rent when it is due, pursuant to section 26(1) of the *Act*, and the Tenant has not established any legal right to withhold rent that was previously due, I find that the Tenant must pay all of the rent that is currently due to the Landlord, which is \$6,000.00.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. On the basis of the undisputed evidence I find that the Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was placed in the Tenant's mail slot on April 06, 2021.

As the Tenant has not yet paid all of the rent that was due on April 01, 2021 and the Tenant was properly served with a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, I find that the Landlord has the right to end this tenancy pursuant to section 46 of the *Act*. I therefore grant the application for an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

### Conclusion

The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

I grant the Landlord an Order of Possession that is effective **at 1:00 p.m. on July 31, 2021**. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$6,100.00, which includes \$6,000.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for \$6,100.00. In the event that the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, 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 *Act*.

Dated: July 26, 2021

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Residential Tenancy Branch