



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## 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 landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

While the landlord SF attended the hearing by way of conference call, the tenant did not. 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 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

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

Section 55(1) and (1.1) of the *Act* reads as follows:

**Order of possession for the landlord**

**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.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

A copy of the 10 Day Notice was submitted for this hearing, and I find that the landlords' 10 Day Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

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 1 Month Notice, April 7, 2021. In this case, this required the tenant and anyone on the premises to vacate the premises by April 7, 2021. As this has not occurred, I find that the landlords are entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

The landlords 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 landlords may enforce this Order in the Supreme Court of British Columbia.

The 10 Day Notice dated March 28, 2021 notes that the tenant failed to pay rent in the amount of \$11,183.00 on or before March 1, 2021. The landlord testified that as of the hearing date, the tenants owed \$16,803.00 in outstanding rent. Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1.1) of

the *Act*, I find that the landlords are entitled to a monetary order in the amount of \$16,803.00 for this tenancy.

The landlord testified that they were still in possession of the tenant's security deposit in the amount of \$992.50. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenant's security deposit in partial satisfaction of the monetary award.

### **Conclusion**

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

I find that the landlords are entitled to an Order of Possession.

I grant an Order of Possession to the landlords 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.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenant's security deposit in partial satisfaction of the monetary award. I issue a \$15,810.50 Monetary Order in favour of the landlords for the remaining amount. The tenant must be served with this Order as soon as possible. Should the tenant 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.

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: July 29, 2021

---

Residential Tenancy Branch