



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT Limited Partnership and [tenant name  
suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR, FFL

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding a tenancy. The Landlord applied for:

- an order of possession for the rental unit, based on the issuance of a 10 Day Notice to End Tenancy For Unpaid Rent, dated October 4, 2021 (the 10 Day Notice); and;
- authorization to recover the filing fee from the Tenant.

The Landlord attended the hearing; 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; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Landlord testified they served their Notice of Dispute Resolution Proceeding (NDRP) and evidence on the Tenant on October 28, 2021 by registered mail. In accordance with section 90 of the Act, I find the NDRP and evidence deemed received by the Tenant on November 2, 2021. I find the Landlord served the Tenant in accordance with section 89 of the Act.

### Issues to be Decided

Is the Landlord entitled to an order of possession for unpaid rent?

Is the Landlord entitled to the filing fee?

### Background and Evidence

The Landlord confirmed the following particulars of the periodic tenancy. It began on July 1, 2020; rent is \$1,095.00, due on the first of the month; and the Tenant paid a security deposit of \$547.50, which the Landlord still holds. The Landlord provided an unsigned copy of the tenancy agreement as evidence.

The Landlord submitted a copy of the 10 Day Notice as evidence. It is signed and dated by the Landlord, gives the address of the rental unit, states an effective date of the Notice, states the reason for ending the tenancy, and is in the approved form.

The Landlord testified they served the 10 Day Notice on the Tenant on October 4, 2021 by posting it on the door.

The Landlord testified the Tenant owes outstanding rent for August to November 2021, as summarized in the following table:

<b>Date rent due</b>	<b>Amount rent due</b>	<b>Tenant's payment</b>	<b>Monthly balance outstanding</b>
Aug 1, 2021	\$1,095.00	\$0.00	\$1,095.00
Sept 1, 2021	\$1,095.00	\$0.00	\$1,095.00
Oct 1, 2021	\$1,095.00	\$0.00	\$1,095.00
Nov 1, 2021	\$1,095.00	\$0.00	\$1,095.00
		<b>Total</b>	<b>\$4,380.00</b>

The Landlord submitted as evidence a Direct Request Worksheet summarizing the rent owing, and a copy of the Tenant Statement of Account, also showing the Tenant's payment history.

### Analysis

Section 26 of the Act provides that a tenant must pay the rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations, or the Tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

Further, when a landlord is seeking an order of possession for unpaid rent, section 55 of the Act allows an arbitrator to grant an order requiring payment of that rent, when a

notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution, and the time for making that application has expired.

Based on the evidence before me, and on a balance of probabilities, I make the following findings.

I find that the tenancy agreement requires the Tenants to pay the Landlord rent of \$1,095.00 each month.

I find that as the Landlord served the Tenants the 10 Day Notice by posting it to the door on October 4, 2021, it is deemed received on October 7, 2021, in accordance with section 90 of the Act. I find the 10 Day Notice served on the Tenant in accordance with section 88 of the Act and that it meets the form and content requirements of section 52.

I accept the Landlord's undisputed affirmed testimony that the Tenant owes \$4,380.00 in outstanding rent. There is no evidence before me that the Tenant had a legal right to withhold payment of rent.

I find that the Landlord is entitled to an order of possession.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord is successful in their application, I order the Tenant to pay the \$100.00 filing fee the Landlord paid to apply for dispute resolution.

I find the Landlord is entitled to a monetary award of \$4,480.00. In accordance with sections 38 and 72 of the Act, I allow the Landlord to retain \$547.50 of the Tenant's security deposit in partial satisfaction of this monetary award as follows:

<b>Item</b>	<b>Amount</b>
Unpaid rent for August to November 2021	\$4,380.00
Less Security Deposit	(-547.50)
Return of Filing Fee	100.00
<b>Total</b>	<b>\$3,932.50</b>

The security deposit for this tenancy is reduced by \$547.50 to \$0.00.

Conclusion

The Landlord's application is granted.

I hereby grant the Landlord an order of possession, which must be served on the Tenant and which is effective two (2) days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I hereby grant the Landlord a monetary order for \$3,932.50. The monetary order must be served on the Tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: November 23, 2021

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Residential Tenancy Branch