



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      Tenant application #1: CNC, RP, RR, CNR  
                                 Tenant application #2: CNR, RR, PSF, RP  
                                 Tenant application #3: CNR, RR, RP, PSF

### **Introduction, Preliminary and Procedural Matters –**

This telephone conference call hearing was convened as the result of the tenant's three applications for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The tenant first applied for an order cancelling the One Month Notice to End Tenancy for Cause (1 Month Notice), issued by the landlord, for an order requiring the landlord to make repairs to the rental unit, and a reduction in monthly rent. The tenant later amended that application to include a request for an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) dated March 2, 2022.

The tenant then filed a subsequent application for dispute resolution seeking remedy under the Act, for an order cancelling another 10 Day Notice, a reduction in monthly rent, an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act, and for an order requiring the landlord to make repairs to the rental unit.

The tenant then filed a third application seeking the same relief sought in his second application.

All the files were administratively joined by the Residential Tenancy Branch (RTB) as repeated applications, set for the same time and date.

The hearing began as scheduled at 1:30 p.m. Pacific Time on Tuesday, April 5, 2022, and the telephone system remained open and was monitored for 20 minutes.

During this time, the applicant/tenant did not dial into the telephone conference call hearing; however, the landlord was present.

The landlord was affirmed and provided his testimony. The landlord also affirmed he was not recording the hearing.

Rules 7.3 and 7.4 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.

### **7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenant at the hearing, **I order the tenant's three applications dismissed, without leave to reapply.**

### Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit and a monetary order consisting of unpaid monthly rent?

### Background and Evidence

The tenancy began on October 1, 2020, and monthly rent is \$1,795.

The landlord said that the tenant served him with his first application, but was unaware of the other two applications. The landlord submitted evidence for the first application, but no evidence for the other two applications.

Filed in evidence by both parties was the 10 Day Notice, dated March 2, 2022, listing an effective move-out date of March 16, 2022, and unpaid rent of \$3,192.50.

The tenant, in his amended application, confirmed receiving the Notice on March 3, 2022, by email.

The landlord submitted that the tenant paid \$500 on March 5, 2022, did not pay the monthly rent for April, 2022, and as of the date of the hearing, the tenant owed a total accumulated amount of unpaid rent in the amount of \$4,487.50 (\$3,192.50 rent deficiency listed on the 10 Day Notice + \$1,795 April rent - \$500 paid).

The landlord submitted that the tenant remains living in the rental unit.

### Analysis and Conclusion

#### **Order of possession of the rental unit –**

Given the above dismissal of the tenant's applications and after reviewing a copy of the Notice, which had an effective vacancy date of March 16, 2022, and which I find complies with section 52 of the Act as to form and content, pursuant to section 55(1) of the Act, I must grant an order of possession to the landlord.

I therefore grant the landlord an order of possession of the rental unit effective and enforceable **two (2) days after service on the tenant**.

Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement, **including bailiff fees**, are recoverable from the tenant.

#### **Monetary order –**

I find that the landlord submitted sufficient, undisputed evidence to show that the tenant did not pay the monthly rent listed on the Notice, did pay \$500 on March 5, 2022, and did not pay the monthly rent of \$1,795 for April 2022. I find the tenant owes a total amount of unpaid rent of \$4,487.50 through the date of the hearing.

Section 55(1.1) of the Act applies and states:

55(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.**

[Emphasis added]

Pursuant to section 55(1.1) of the Act, I order the tenant to pay the landlord the amount of \$4,487.50, which is the total amount of unpaid monthly owing as of the date of the hearing.

As a result, I grant the landlord a final, legally binding monetary order for the amount of his monetary award of \$4,487.50.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The tenant's three applications are dismissed without leave to reapply as he failed to attend the hearing to submit evidence.

Due to the dismissal of the tenant's three applications for dispute resolution, the landlord has been granted an order of possession of the rental unit effective two (2) days after service on the tenant.

The landlord is granted a monetary order in the amount of \$4,487.50 for a total amount of unpaid rent owed as of the date of the hearing.

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*. Pursuant to

section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Correction date: April 9, 2022

Dated: April 05, 2022

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Residential Tenancy Branch