



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 43 Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR

### Introduction, Preliminary and Procedural Matters –

This telephone conference call hearing was convened as the result of the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The tenant applied for an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) dated January 11, 2022.

The hearing began as scheduled at 9:30 a.m. Pacific Time on Monday, April 25, 2022, and the telephone system remained open and was monitored for 11 minutes.

During this time, the applicant/tenant did not dial into the telephone conference call hearing; however, the landlord's agents (agent) were present.

The agents were affirmed and provided their testimony. The agents also affirmed they were 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 application 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 August 1, 2013, and current monthly rent owed by the tenant is \$261.

The landlord said that the tenant served them with her application by personal service on February 8, 2022. The landlord submitted evidence in response to the tenant's application.

Filed in evidence by both parties was the Notice, dated January 11, 2022, listing an effective move-out date of January 27, 2022, and unpaid rent of \$3,067 owed as of January 1, 2022.

The tenant, in her application, said the Notice was received on January 19, 2022, attached to the door.

The landlord submitted that the tenant was served the Notice by registered mail on January 11, 2019, and by attaching it to the tenant's door on January 19, 2022. The landlord provided the Canada Post tracking number for the service of the registered mail.

The landlord submitted that the tenant failed to pay any rent since receiving the Notice and as of the date of the hearing, the agent said the tenant's total amount owed is \$3,850, for a total accumulated rent deficiency.

The agent submitted that they were unaware if the tenant vacated the rental unit, but as of two weeks prior to the hearing, the tenant remained living in the rental unit.

The agent requested that they be granted authority to retain the tenant's security deposit of \$400 to offset a monetary award.

### Analysis and Conclusion

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

Given the above dismissal of the tenant's application and after reviewing a copy of the Notice, which had an effective vacancy date of January 27, 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 or any rent since the Notice. I find the tenant owes a total amount of unpaid rent of \$3,850 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.

Pursuant to section 55(1.1) of the Act, I order the tenant to pay the landlord the amount of \$3,850, which is the total amount of unpaid monthly owing as of the date of the hearing.

I grant the landlord authority to keep the tenant's security deposit of \$400, and, as a result, I grant the landlord a final, legally binding monetary order for the amount of \$3,450 (\$3,850 total rent deficiency less the tenant's security deposit of \$400).

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 application is dismissed without leave to reapply as she failed to attend the hearing to submit evidence.

Due to the dismissal of the tenant's application 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 \$3,450 for a total amount of unpaid rent owed as of the date of the hearing, less the tenant's security deposit of \$400.

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

Dated: April 25, 2022

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Residential Tenancy Branch