



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

For the Landlord: OPR-DR, MNR-DR  
For the Tenant: CNR

### Introduction

On May 12, 2022 the Tenant applied for dispute resolution for an order cancelling the 10-Day Notice to End Tenancy Issued for Unpaid Rent or Utilities (the “10-Day Notice”) issued by the Landlord on May 10, 2022.

On May 29, 2022 the Landlord applied for an order of possession of the rental unit, and a monetary order for rent not paid. The Landlord’s application here was filed initially as a Direct Request. The matter proceeded by way of participatory hearing because this Direct Request application cannot be considered by that method when there is a cross-application by the Tenant in place.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 20, 2022. The Landlord attended the telephone conference call hearing; the Tenant did not attend.

The Tenant’s Application of December 16, 2021 was the first filed in the matter of this tenancy. The Tenant did not attend the hearing, although I left the teleconference hearing open until 11:16am to enable them to call in to this teleconference hearing scheduled for 11:00am. I confirmed the correct call-in numbers and participant codes were provided in the Notice of Hearing generated when the Tenant applied. I also confirmed throughout the duration of the call that the Tenant was not in attendance. Additionally, the Landlord provided the Tenant moved out, and the tenancy had already ended.

The Landlord provided that a named second tenant was indicated on their Application. That individual left the tenancy early prior to service of the 10-Day Notice. I have amended the Landlord's Application to exclude this former tenant as a named party in this process.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the application without leave to reapply. On this basis, I dismiss the Tenant's application for cancellation of the May 10, 2022 10-Day Notice. This is without leave to reapply on this issue.

The Landlord in the hearing advised the tenancy previously ended. The Tenant moved out from the rental unit on "the very last day of July" as provided by the Landlord in the hearing.

Because the tenancy ended, I dismiss the Landlord's Application for an Order of Possession; however, the remainder of their Application for compensation remains and receives consideration below.

The *Act* allows for the Landlord to recover rent in the situation where a Tenant's Application to cancel a 10-Day Notice is dismissed. This is contingent on the 10-Day Notice complying with the form and content requirements of s. 52. On my review, the 10-Day Notice that was disputed by the Tenant – that of May 5, 2022 – complies with the form and content requirements.

The Landlord provided evidence, backed with their testimony, of the following rent amounts owing by the Tenant:

<b>Rent due date</b>	<b>Rent amount</b>	<b>Amount paid</b>	<b>Outstanding</b>
May 1, 2022	\$1,500.00	\$450	\$1,050.00
June 1, 2022	\$1,500.00	\$0	\$1,500.00
July 1, 2022	\$1,500.00	\$0	\$1,500.00
<b>TOTAL:</b>			<b>\$4,050.00</b>

The Tenant vacated the rental unit before August 1, 2022. I grant the Landlord a monetary award for rent amounts owing, for unpaid rent to July 31, 2022, in accordance with s. 55(1.1) of the *Act*.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by the Landlord. The Landlord has established a claim of \$4,050.00. After setting off the remainder of the security deposit held by the Landlord – the amount of \$800 -- there is a balance of \$3,250.00. I am authorizing the Landlord to keep the security deposit amount and award the balance of \$3,250.00 as compensation for the May, June and July 2022 rent amounts.

### Conclusion

In the absence of the Tenant, I dismiss their application in its entirety and without leave to re-apply.

Pursuant to s. 55(1.1) of the *Act*, I grant the Landlord a Monetary Order for the recovery of the amounts claimed. This amount is \$3,250.00. 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 s. 9.1(1) of the *Act*.

Dated: September 20, 2022

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Residential Tenancy Branch