



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Tenant application #1: CNR  
                             Tenant application #2: CNR

### Introduction, Preliminary and Procedural Matters –

This telephone conference call hearing was convened as the result of the tenant's two applications for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant first applied for an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) dated June 7, 2022.

The tenant then filed a subsequent application for dispute resolution for an order cancelling another 10 Day Notice.

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 9:30 a.m. Pacific Time on Friday, October 28, 2022, and the telephone system remained open and was monitored for 15 minutes.

During this time, the applicant/tenant did not dial into the telephone conference call hearing; however, the landlord's agent 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 two 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 November 1, 2017, and monthly rent is \$700 on the written tenancy agreement. The agent explained that the current owner purchased the property from the original and the agreed upon rent became \$900, which included all utilities, rather than the tenant paying 1/3 of the utilities required in the addendum to the tenancy agreement. The agent submitted that the tenant ledger sheet filed in evidence showed that the tenant paid \$900 per month for full rent.

The landlord said that the tenant served the landlord/owner with his first application, but was unaware of the other application as the landlord was not served with the tenant's second application package. The landlord submitted evidence for the first application, but no evidence for the other application.

The agent submitted that the landlord served the tenant with the Notice on June 7, 2022, by attaching it to the tenant's door. The tenant, in his application, confirmed receiving the Notice on June 8, 2022.

Filed in evidence by both parties was the 10 Day Notice, dated June 7, 2022, listing an effective move-out date of June 18, 2022, and unpaid rent deficiency of \$2,000 owed as of June 1, 2022.

The landlord submitted that the tenant did not pay rent in June and the next payment the landlord received was \$900 on July 20, 2022. The landlord submitted that as of the date of the hearing, the tenant owed a total accumulated amount of unpaid rent in the amount of \$2,900. The landlord submitted that when the tenant paid the September rent, the tenant was issued a for use and occupancy receipt.

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 June 18, 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 not pay any further rent until July 20, 2022, with the payment of \$900, and as of the day of the hearing, the tenant owed a

total of \$2,900 in outstanding monthly rent. I find the landlord's documentary evidence supports the dates and amounts of monthly rent payments made by the tenant.

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 \$2,900, 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 \$2,900.

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 two 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 two applications for dispute resolution and the landlord's undisputed evidence, 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 \$2,900 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.

Dated: October 29, 2022

---

Residential Tenancy Branch