



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CHEOL AND HEE HOLDING GROUP  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

<b><u>Dispute Codes</u></b>	Landlord:	OPC, OPR, MNRL-S, FFL
	Tenant:	CNR

### **Introduction**

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the Residential Tenancy Act (the Act).

The Landlord's Application for Dispute Resolution was made on August 12, 2022. The Landlord applied for the following relief, pursuant to the Act:

- an order of possession based on an undisputed One Month Notice to End Tenancy for Cause, dated June 7, 2022 (the One Month Notice);
- an order possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated August 5, 2022 (the 10 Day Notice);
- a monetary order for unpaid rent or utilities;
- an order permitting the Landlord to retain the security deposit and/or pet damage deposit; and
- an order granting recovery of the filing fee.

The Tenant's Application for Dispute Resolution was made on August 11, 2022. The Tenant applied to cancel the 10 Day Notice, pursuant to the Act.

The Landlord was represented at the hearing by RL, an agent, who provided affirmed testimony. The Tenant did not attend the hearing. Accordingly, I order that the Tenant's application is dismissed without leave to reapply.

On behalf of the Landlord, RL testified the Notice of Dispute Resolution Proceeding package was served on the Tenant by registered mail on September 1, 2022. Pursuant to section 89 and 90 of the Act, documents served in this manner are deemed to be received five days later. I find the Tenant is deemed to have received these documents on September 6, 2022, five days after they were mailed.

RL was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to a monetary order for unpaid rent?
3. Is the Landlord entitled to retain the security deposit?
4. Is the Landlord entitled to recover the filing fee?

### Background and Evidence

On behalf of the Landlord, RL confirmed the tenancy began on March 1, 2022. Rent of \$628.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$262.50, which the Landlord holds.

RL testified the Tenant did not pay rent when due. Accordingly, the Landlord issued the 10 Day Notice, which confirms that rent of \$646.00 remained unpaid at that time. A copy of the 10 Day Notice was submitted into evidence. The 10 Day Notice is signed and dated, gives the address of the rental unit, states the effective date, states the grounds for ending the tenancy, and is in the approved form.

RL testified the 10 Day Notice was served on the Tenant in person on August 5, 2022. The Landlord submitted a Proof of Service Notice to End Tenancy document which includes the Tenant's signature as confirmation of receipt.

RL testified the Tenant paid \$309.50 on August 25, 2022, and \$309.50 on September 25, 2022, but that no other payments have been received since the 10 Day Notice was served on the Tenant.

As noted above, the Tenant did not attend the hearing to dispute the Landlord's evidence.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26(1) of the Act confirms:

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

Section 46 of the Act confirms a landlord may take steps to end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

In this case, I find that the 10 Day Notice was served on and received by the Tenant on August 5, 2022. The 10 Day Notice complies with the form and content requirements of section 52 of the Act.

I find the Tenant did not pay rent within five days after receipt of the 10 Day Notice. Therefore, I find the Landlord is entitled to an order of possession which will be effective two days after it is served on the Tenant.

In addition, based on the testimony of RL, I find the Landlord is entitled to an award of \$1,283.00 for unpaid rent, which has been calculated as follows:

<b>Rent due/received</b>	<b>Amount</b>
Rent due on 10 Day Notice (August 5):	\$646.00
Rent received (August 25):	(\$309.50)
Rent due (September 1):	\$628.00
Rent received (September 25):	(\$309.50)
Rent due (October 1):	\$628.00
<b>TOTAL:</b>	<b>\$1,283.00</b>

Having been successful, I find the Landlord is also entitled to recover the \$100.00 filing fee. I also find it is appropriate in the circumstances to order that the Landlord is authorized to retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I grant the Landlord a monetary order in the amount of \$1,120.50, which has been calculated as follows:

<b>Claim</b>	<b>Allowed</b>
Unpaid rent:	\$1,283.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$262.50)
<b>TOTAL:</b>	<b>\$1,120.50</b>

As the Landlord has been granted an order of possession based on unpaid rent, it is not necessary to consider the Landlord's request for an order of possession based on the One Month Notice. This aspect of the Landlord's application is dismissed.

### Conclusion

The Tenant's application is dismissed without leave to reapply.

The Landlord is granted an order of possession, which will be effective two days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$1,120.50. 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: October 11, 2022

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Residential Tenancy Branch