



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR-MT, MNDCT, RR, RP, LRE, OLC, FFT

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The Tenant applied for multiple remedies, including to cancel a 10 Day Notice for Unpaid Rent or Utilities, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlords (respondents) attended the hearing. However, the Tenants (applicants) did not. The hearing was by telephone conference and began promptly, as scheduled, at 9:30 AM Pacific Time on November 1, 2022, as per the Notice of a Dispute Resolution Hearing provided to the Tenant. The line remained open while the phone system was monitored for 10 minutes and the only participant who called into the hearing during this time was the respondent Landlord who was ready to proceed. The Landlords testified that the Tenant moved out of the rental unit several months ago, so they no longer need an order of possession.

Further, the Landlords provided a file number for their previous dispute resolution, whereby they applied for an Order of Possession, and a Monetary Order based off of a 10 Day Notice to End Tenancy for Unpaid Rent dated May 25, 2022 (the 10 Day Notice). A decision was rendered on that matter, and the May 25, 2022, 10 Day Notice was cancelled and their request for an order of possession was dismissed, without leave to reapply. However, their application for monetary compensation was dismissed, with leave to reapply. Subsequently, the Tenants moved out, and the Landlord filed a second application for monetary compensation for the unpaid rent, which is set to be heard next year in April 2023.

After the ten minute waiting period in the current hearing, the Tenant's application was **dismissed in full, without leave to reapply**, given they failed to attend the hearing to present their claims.

Section 55 of the Act applies and states:

**Order of possession for the landlord**

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

**(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.**

[My emphasis added]

Given the tenancy is over, the Landlord does not require an order of possession any longer, pursuant to section 55(1) of the Act, as such, this matter will not be addressed any further.

Next, I turn to section 55 (1.1) of the Act, which specifies that I must grant a monetary order for outstanding unpaid rent, provided a valid 10 Day Notice was issued, and if the Tenant's application to cancel the 10 Day Notice is dismissed. However, since this hearing was convened to dispute the May 25, 2022, 10 Day Notice, and that Notice has already been cancelled, I find I have no jurisdiction to consider this Notice any further. Accordingly, I am unable to issue a monetary order for unpaid rent, pursuant to section 55 (1.1) based off the May 25, 2022, 10 Day Notice since it has already been cancelled.

The Landlord has leave to apply for monetary compensation for unpaid rent. The Landlord may wish to keep their dispute resolution, scheduled for next April 2023, should they wish to recover any outstanding rent amounts.

Conclusion

The Tenants' application is dismissed, in full, without leave.

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: November 2, 2022

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Residential Tenancy Branch