



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      CNR

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 46 (the 10 Day Notice).

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 1:47 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.m. The tenants should have been aware of the hearing date, time and call-in instructions as this dispute was initiated by the tenants and the tenants were required to serve a copy of the notice of hearing on the landlord. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

### Issues

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession and a monetary order for unpaid rent?

### Background and Evidence

The tenancy for this double-wide trailer began in December of 2020. The monthly rent is \$800.00 payable on the 1<sup>st</sup> day of each month. The tenants paid a security deposit of \$400.00 and a pet deposit of \$400.00 at the start of the tenancy.

The landlord testified that on October 16, 2022 the tenants were personally served the 10 Day Notice. The 10 Day Notice indicates the tenants failed to pay rent in the amount of \$800.00 which was due on October 1, 2022.

The landlord testified that the tenant did not pay the full amount of the arrears indicated on the 10 Day Notice within five days of being served and that the full amount is still outstanding. The landlord testified that in addition to October 2022, the tenants failed to pay rent for the months of September and November 2022 and the landlord was seeking a monetary order in the total amount of \$2400.00.

### Analysis

Section 26 of the Act requires that 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 requires that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

Section 55(1) of the Act states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 52 of the Act.

Further, as per section 55(1.1) if the application is in relation to a notice to end tenancy under section 46 [*landlord's notice: non-payment of rent*] an order requiring the payment of the unpaid rent must also be granted.

The tenants filed to dispute the 10 Day Notice within the time limit permitted under the Act. However, the tenants failed to participate in this hearing and present any evidence to support why the 10 Day Notice should be cancelled. Accordingly, the tenants' application is dismissed in its entirety without leave to reapply.

I accept the landlord's undisputed testimony and find the tenant failed to pay the outstanding rent as per the 10 Day Notice within 5 days of the Notice being served and that the full amount is still outstanding along with September and November 2022 rent payable under the tenancy agreement.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

The landlord is granted a monetary award for outstanding rent in the amount of \$2400.00 as per the landlord's testimony.

The landlord continues to hold a security and pet deposit totalling \$800.00. Using the offsetting provisions of section 72 of the Act, the landlord may retain the security and pet deposit in partial satisfaction of the monetary award.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$1600.00.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant the landlord a Monetary Order in the amount of \$1600.00. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 29, 2022

---

Residential Tenancy Branch