



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

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A matter regarding WELBEC PROPERTIES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNR CNC RP PSF OLC  
OPR-DR MNR-DR FFL

### **Introduction**

The tenant sought an order cancelling a *10 Day Notice to End Tenancy for Unpaid Rent* (the "Notice") under the *Residential Tenancy Act* (the "Act"). The tenant also sought additional relief. By cross-application the landlord sought an order of possession and compensation for unpaid rent and for the application filing fee.

The landlord's agent attended the hearing while the tenant did not.

### **Issues**

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?
3. Is the landlord entitled to compensation?

### **Background and Evidence**

The tenancy began April 1, 2022. Rent is \$1,300.00 and it is due on the first day of the month. The tenant paid a \$650.00 security deposit. There is a copy of the tenancy agreement in evidence.

The landlord's agent testified under oath that he served the Notice—a copy of which is in evidence—by posting it on the door of the rental unit on July 11, 2022. A copy of the service of notice document was also in evidence.

The agent gave evidence that the tenant did not pay rent when it was due on July 1, and to date has not paid any rent. As of December 9, 2022 the tenant owes \$7,890.00 in rent arrears. A copy of the tenant's ledger was submitted into evidence to support the landlord's claim.

### Analysis

Section 26 of the Act requires a tenant to pay rent when it is due under a tenancy agreement unless the tenant has a right under the Act to deduct a portion of the rent.

Section 46(1) of the Act permits a landlord to end a tenancy if rent is unpaid on any day after the day it is due by issuing a *10 Day Notice to End Tenancy for Unpaid Rent*.

The landlord's undisputed evidence supports the claim that the tenant did not pay the rent when it was due on July 1, 2022. Nor has the tenant paid any rent since.

Thus, I find on a balance of probabilities that the Notice was given for a valid ground, namely, that the tenant did not pay rent. Further, having carefully reviewed the Notice I find that it complies with form and content requirements of section 52. The tenant's application to cancel the Notice is thus dismissed.

Given the above findings, the landlord is thus granted an order of possession pursuant to section 55(1) of the Act. A copy of the order of possession is issued with this Decision to the landlord, who must serve a copy of the order upon the tenant. The tenant has two days to vacate the rental unit from the date of service or deemed service.

As the application made by the landlord relates to a section 46 notice to end tenancy the landlord is also entitled to an order requiring the payment of unpaid rent (section 55(1.1) of the Act). Thus, the tenant is ordered to pay \$7,890.00 to the landlord.

The landlord succeeded in its application and is therefore entitled to \$100.00 to recover the cost of the filing fee under section 72 of the Act. In total the landlord is awarded \$7,990.00.

Pursuant to section 38(4)(b) of the Act the landlord is ordered to retain the \$650.00 security deposit in partial satisfaction of the above-noted payment order.

A monetary order is issued with this Decision to the landlord for the balance of the amount owing. The landlord must serve a copy of the monetary order upon the tenant. The monetary order is enforceable in the Provincial Court of British Columbia (Small Claims Court).

Conclusion

**IT IS HEREBY ORDERED THAT:**

1. The tenant's applications are dismissed, without leave to reapply.
2. The landlord is granted an order of possession of the rental unit.
3. The landlord is awarded \$7,990.00.
4. The landlord is ordered to retain the tenant's security deposit and is granted a monetary order.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: December 9, 2022

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Residential Tenancy Branch