



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, OLC  
                             CNR-MT  
                             CNR

### Introduction

This hearing was scheduled to convene at 11:00 a.m. on February 24, 2023 concerning 3 applications made by the tenant which have been joined to be heard together. All applications seek orders cancelling notices to end the tenancy for unpaid rent or utilities. One application also seeks an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement, and another seeks more time than prescribed to dispute a notice to end the tenancy.

An agent for the landlord attended the hearing and gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

At the commencement of the hearing, the landlord's agent testified that the parties signed a Mutual Agreement to End Tenancy on January 23, 2023 effective February 10, 2023, however the tenant vacated the rental unit on February 8, 2023, and the landlord has possession. The landlord's agent requested that the hearing continue in order for the landlord to recover unpaid rent.

### Issue(s) to be Decided

The issue remaining to be decided is:

- Has the landlord established a monetary claim as against the tenant for unpaid rent?

### Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on September 1, 2022, although the landlord allowed the tenant to actually move in earlier. Rent in the amount of \$1,400.00 was payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$800.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a basement suite, and the upper level of the home is also tenanted.

The landlord's agent further testified that the parties signed a Mutual Agreement to End Tenancy effective on February 10, 2023, however the tenant vacated the rental unit on February 8, 2023 leaving arrears of rent the sum of \$5,600.00 for the months of October, November and December, 2022 and January, 2023. The landlord claims \$5,600.00 as well as a pro-rated amount of \$400.00 for February, 2023. The tenant has also failed to pay utilities.

The landlord has possession of the rental unit and also seeks to keep the \$800.00 security deposit in partial satisfaction of the claim. The landlord's agent filed an application on February 17, 2023 seeking an order permitting the landlord to keep the security deposit, which has not yet been heard.

### Analysis

The *Residential Tenancy Act* 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.

In this case, since the tenant has not attended the hearing, I dismiss all of the tenant's applications without leave to reapply.

I have also reviewed all of the 10 Day Notices to End Tenancy for Unpaid Rent or Utilities, and I find that all are in the approved form and contain information required by the *Act*. I also accept the undisputed testimony of the landlord's agent that the tenant is in arrears of rent the sum of \$6,000.00 including the pro-rated rent for the last partial month of the tenancy, and I grant a monetary order in favour of the landlord in that amount. The tenant must be served with the order, which may be filed for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

There is nothing in the *Act* permitting me to order that the landlord keep the security deposit without notifying the tenant, and I decline to make that order. The landlord is at liberty to seek that order in partial satisfaction of this monetary order.

### Conclusion

For the reasons set out above, the tenant's applications are all hereby dismissed in their entirety without leave to reapply.

I hereby grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$6,000.00.

This order is final and binding and may be enforced.

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: February 24, 2023

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Residential Tenancy Branch