



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Fernie Family Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Introduction**

This review hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied for:

1. An Order cancelling a notice to end tenancy - Section 46; and
2. An Order restricting the Landlord’s entry - Section 70.

The Landlord applied for:

1. An Order of Possession - Section 55;
2. An Order for unpaid rent or utilities - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. No issues were raised with the receipt of either Party’s evidence or the Landlord’s receipt of the review consideration decision dated December 9, 2022.

### **Preliminary Matter**

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the Tenant’s claim to restrict the Landlord’s entry is not related to the matter of whether the tenancy will end, I dismiss the claim with leave to reapply.

Issue(s) to be Decided

Does the notice to end tenancy comply in form and content?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order for rent?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The following are agreed or undisputed facts: the tenancy started on April 30, 2015. At the outset of the tenancy the Landlord collected \$494.00 as a security deposit. At the time of the applications rent of \$529.00 was payable on the first day of each month. The Landlord gave the Tenant a 10-day notice to end tenancy for unpaid rent dated June 30, 2022 (the "Notice"). The Notice sets out unpaid rent of \$4,106.00 but does not set out when these rents were due.

Analysis

Section 55(1) of the Act provides that 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.

Section 55 (1.1) of the Act provides that 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. Section 52(e) of the Act provides that in order to be effective, a notice to end a tenancy must be in writing and must when given by a landlord, be in the approved form. A landlord must complete all the details on the form. Given the undisputed evidence

that the Notice does not include the date that the rents were due I find that the Notice does not comply in form and content. As the Tenant has disputed the Notice and as the Notice is not in compliance, I find that the Notice is not effective to end the tenancy and that the Landlord is not entitled to either an order of possession or an order for unpaid rent. I therefore cancel the Notice and dismiss the Landlord's application with leave to reapply. The tenancy continues.

### Conclusion

The Notice is cancelled, and the tenancy continues.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 18, 2023

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Residential Tenancy Branch