



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

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

## **DECISION**

Dispute Codes      CNR, PSF, LRE, LAT, OLC

### Introduction, Preliminary and Procedural Matters –

This telephone conference call hearing was convened as the result of the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The tenant applied for:

- an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord;
- an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act;
- an order suspending or setting conditions on the landlord's right to enter the rental unit;
- authorization to change the locks to the rental unit; and
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement.

The hearing began as scheduled at 11:00 am Pacific Time on Friday, May 5, 2023, and the telephone system remained open and was monitored for 14 minutes.

During this time, the applicant/tenant did not dial into the telephone conference call hearing; however, the landlord was present and ready to proceed.

The landlord was affirmed and provided their testimony.

Rules 7.3 and 7.4 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

#### **7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenant at the hearing, **I order the tenant's application dismissed, without leave to reapply.**

As to an additional preliminary issue, the tenant did not use their full name on their application. As a result, I found it necessary to amend the name of the tenant to reflect their true name. I also added the business name of the landlord, as shown on the 10 Day Notice.

Additionally, the tenant provided 3 pages of evidence, which were the first and two third pages of the Notice. The landlord testified as to the contents and information on the 10 Day Notice, and then I allowed the landlord to file a copy of the second page during the hearing in order to consider the matters before me.

#### Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit and a monetary order consisting of unpaid monthly rent?

#### Background and Evidence

The tenancy began on December 6, 2022, and monthly rent is \$900, due on the first day of the month, according to the landlord.

The Notice was dated January 3, 2023, listing an effective move-out date of January 17, 2023, and unpaid rent of \$900 owed as of January 1, 2023.

The tenant, in their application, said the Notice was received on January 3, 2023, attached to the door.

The landlord submitted that the tenant failed to pay the outstanding rent listed on the Notice within 5 days, or any rent since receiving the Notice. The landlord submitted that as of the date of the hearing, the tenant's total rent deficiency is \$4500.

The landlord submitted the tenant remained living in the rental unit.

### Analysis

#### **Order of possession of the rental unit –**

Given the above dismissal of the tenant's application and after reviewing a copy of the Notice, which had an effective move-out date of January 17, 2023, and which I find complies with section 52 of the Act as to form and content, pursuant to section 55(1) of the Act, I must grant an order of possession to the landlord.

I therefore grant the landlord an order of possession of the rental unit effective and enforceable **two (2) days after service on the tenant.**

Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement, **including bailiff fees**, are recoverable from the tenant.

#### **Monetary order –**

I find that the landlord submitted sufficient, undisputed evidence to show that the tenant did not pay the monthly rent listed on the Notice and has not paid rent since the Notice was issued. I find the landlord submitted sufficient evidence to show the tenant owes a total amount of unpaid rent of \$4500 through the date of the hearing.

Section 55(1.1) of the Act applies and states:

55(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.

Pursuant to section 55(1.1) of the Act, I order the tenant to pay the landlord the amount of \$4500, which is the total amount of unpaid monthly rent owing as of the date of the hearing, according to the landlord.

I grant the landlord a final, legally binding monetary order for the amount of \$4500. Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The tenant's application is dismissed without leave to reapply as they failed to attend the hearing to submit evidence.

Due to the dismissal of the tenant's application for dispute resolution, the landlord has been granted an order of possession of the rental unit effective two (2) days after service on the tenant.

The landlord is granted a monetary order in the amount of \$4500 for a total amount of unpaid rent owed as of the date of the hearing.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: May 05, 2023

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Residential Tenancy Branch