



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding BCIMC REALTY CORPORATION AND YALETOWN 939 HOLDINGS  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      Tenant: CNR  
Landlord: OPR MNR FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on May 23, 2023.

The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancel the 10 Day Notice to End Tenancy for Unpaid rent or utilities (the Notice);

The Landlord applied for the following relief:

- an order of possession based the 10 Day Notice to End Tenancy; and,
- a monetary order for unpaid rent or utilities.

The Landlord attended the hearing and provided testimony. However, the Tenant did not attend. The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that she no longer requires an order of possession since the tenancy already ended. I have amended the Landlord's application to reflect this. The Landlord testified that she served the Tenant with the Notice of Dispute Resolution Proceeding, and evidence on February 28, 2023, by registered mail. Proof of mailing was provided. Pursuant to section 90 of the Act, I find the Tenant is deemed to have received this 5 days later.

The Tenant did not appear at this hearing. As such, I dismiss the Tenant's application in its entirety, without leave to reapply.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent or utilities?

#### Background and Evidence

The Landlord testified that rent in the amount of \$4,237.00 is due on the first of each month. The Landlord stated that she did not receive any rent for January or February 2023. The Landlord stated that the Tenant moved out sometime in early March.

The Landlord is seeking to recover \$8,474.00 for the above noted two months unpaid rent.

#### Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent.

I find there is insufficient evidence the Tenant had any right under the *Act* to withhold rent. With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence from the Landlord's documentary evidence and testimony before me to demonstrate that the Tenant owes and has failed to pay \$8,474.00 in rent for January and February 2023.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was successful in this hearing, I order the Tenant to repay the \$100. I also authorize the Landlord to retain the security deposit to offset what is owed.

In summary, I grant the monetary order based on the following:

<b>Claim</b>	<b>Amount</b>
Cumulative unpaid rent as above	\$8,474.00
Other:	
Filing fee	\$100.00
<b>Less:</b>	
Security Deposit currently held by Landlord	(\$2,118.50)
<b>TOTAL:</b>	<b>\$6,455.50</b>

### Conclusion

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$6,455.50**. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: May 25, 2023

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Residential Tenancy Branch