



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNR, FFT, OPR, MNR, FFL

### Introduction

The tenant filed an application on March 15, 2023, to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) issued on March 10, 2023, and to recover the cost of the filing fee for the application.

Using the direct request process, the landlord completed their application on May 2, 2023, for possession of the rental unit, unpaid rent and reimbursement of their filing fee. I heard both applications because the landlord’s application is directly related to the same 10 Day Notice.

### Issue(s) to be Decided

- Does the 10-day notice end the tenancy?
- Does the tenant owe unpaid rent?
- Does the tenant recover their filing fee?
- Does the landlord recover their filing fee?

### Preliminary Matters

The tenant amended their application on April 20, 2023, to add applicant SW. The tenant submitted a copy of a tenancy agreement effective March 1, 2023. SW is one of the signatories in the landlord section and the respondent landlord QSW is not.

The tenant confirmed they began renting the unit from QSW in 2017 and they included in their submission a copy of an addendum from that 2017 agreement. The tenant

confirmed they have always paid their rent to QSW, and the tenant and QSW have agreed to some rent increases since 2017.

QSW confirmed ownership of the rental unit, affirmed they did not sign the 2023 tenancy agreement, and SW doesn't act on behalf of QSW and is not a landlord. QSW provided a copy of the 2017 tenancy agreement.

The parties agree the tenancy started in 2017 and QSW did not sign the 2023 agreement. I find the 10 Day Notice is related to the 2017 agreement included with the landlord's application, and SW is not a party to the tenancy agreement between QSW and GTJ. I have removed S.W. from the application pursuant to section 64(3) of the Act.

### Background and Evidence

The parties agree that \$2,250.00 in rent was due on March 1, 2023. They also agree that during the tenancy rent was sometimes paid in cash. The tenant admitted he has not paid the full rent for March 2023. The tenant paid \$800.00 instead of \$2,250.00 because the landlord caused two occupants of the rental unit to move out and they left without paying rent. The tenant gave full rent to QSW for April and May and QSW has refused it.

The landlord's 10 Day Notice dated March 10, 2023, states unpaid rent of \$1,450.00 and "other unpaid rental fees dues \$12,900 July 2022 – Feb 2023." The landlord arrived at this historical amount after reviewing their bank records. The landlord did not provide a ledger documenting the rent received during the tenancy. Historically the tenant did some repairs and improvements to the rental unit and the landlord agreed to reduce rent. The tenant says other than March 2023, they are up to date with all rent payments.

### Analysis

- Does the 10-day notice end the tenancy?

The tenant must pay the full amount of rent owing each month when it is due under the tenancy agreement and section 26 of the Act. Whether or not the landlord caused other occupants to move out of the rental unit, the tenant is responsible for the full amount of rent.

The tenant does not dispute that \$1,450.00 was not paid for March 2023. Therefore, the landlord had reason to issue the 10 Day Notice. The 10 Day Notice meets the requirements of section 52 of the Act.

I dismiss the tenant's application to cancel the 10 Day Notice. I end the tenancy effective April 30, 2023. I grant the landlord an order of possession pursuant to section 55 of the Act.

- Does the tenant owe the landlord unpaid rent?

The tenant admitted not paying \$1,450.00 for March 2023 rent. I award the landlord \$1,450.00.

The tenant does not agree that the landlord suffered a loss of rent for the period July 2022 to February 2023. The landlord must show enough evidence to prove this claim.

The landlord based their claim on a review of their bank records completed by their agent. A review of bank records would not necessarily account for rent payments made in cash, or from other occupants, or agreements to reduced rent between the landlord and tenant as indicated by the tenant's evidence. The bank records do not provide an accounting that I can rely on to confirm that the landlord has suffered a loss of an additional \$12,900.00 in unpaid rent.

The landlord has not established their claim for additional rent owing. Therefore, I dismiss the landlord's application for unpaid rent for the period of July 2022 to February 2023, without leave to reapply.

- Does the tenant recover their filing fee?

As they were not successful, the tenant is not entitled to recover the \$100.00 filing fee.

- Does the landlord recover their filing fee?

The landlord filed a direct request application after the tenant had already filed to dispute the same 10 Day Notice. This application was unnecessary. The landlord could have filed their evidence in a timely manner as a response to the tenant's claim. Therefore, the landlord is not entitled to recover the \$100.00 filing fee.

Conclusion

I dismiss the tenant's application to cancel the 10 Day Notice, without leave to reapply.

I grant an order of possession to the landlord **effective two (2) days after service of this Order on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an order of the Supreme Court of British Columbia.

I grant the landlord a monetary order in the amount of **\$1,450.00** for March 2023 rent. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that court.

The landlord's application for a Monetary Order for unpaid rent for the period of July 2022 to February 2023 is dismissed, without leave to reapply.

Neither party is entitled to recover the filing fee

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 12, 2023

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Residential Tenancy Branch