



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL, CNR, FFT

### Introduction

Under section 58 of *Residential Tenancy Act*, this hearing dealt with the Tenant's March 30, 2023 Application for Dispute Resolution to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued on March 27, 2023. The Tenant also applied to suspend or set conditions on the Landlord's right to enter the unit and for reimbursement of the Filing Fee.

Crossed with the Tenant's Application is the Landlord's April 9, 2023 Application for Dispute Resolution for an Order of Possession, a Monetary Order for Unpaid Rent and reimbursement of the Filing Fee.

The Tenant's claim to suspend or set conditions on the Landlord's right to enter the unit is not directly related to the Notice. With reference to Rule of Procedure 2.3, I dismiss this claim.

### Issue(s) to be Decided

- Does the Notice end the tenancy?
- Does the Tenant owe unpaid rent?
- Is the Landlord entitled to recover the Filing Fee?
- Is the Tenant entitled to recover the Filing Fee?

### Background and Evidence

The month-to-month tenancy started in November 2018, with an agreement of \$1550 monthly rent to be paid on the first of each month. A security deposit of \$775 and a pet damage deposit of \$400 were paid by the Tenant in October 2018 and the Landlord holds them in trust.

The Landlord's Application reports unpaid rent in the amount of \$6485, up to and including March 2023. The Landlord reports additional unpaid rent for April and May 2023, bringing the total unpaid rent to \$9585.00.

The Landlord provided the following evidence:

- Calculation Sheet, indicating arrears from March 2020 until March 2023. The calculation indicates the amount paid by the Tenant, and the amount owing effective March 2023 (total: \$6485).
- E-transfers sent from Tenant to Landlord, with confirmed amounts of rent paid.
- Text messages about work completed by the Tenant.

The Tenant admits he last paid rent in February 2023, in the amount of \$1575. The Landlord states that because the Tenant wasn't paying any rent, the increase from \$1550 to \$1575 was never implemented and the Tenant has not ever paid \$1575 per month and this amount was not factored into their calculation of unpaid rent.

The Tenant admits to falling into arrears during Covid-19 pandemic and owing the Landlord about \$6000 in unpaid rent. The Tenant confirms no payment of rent for March, April and May 2023. The Tenant reports installing hardwood floors and completing painting jobs for the Landlord in exchange for reduced rent.

The Landlord agrees that rent should be reduced due to the work the Tenant did and has taken this into consideration. The Calculation Spreadsheet indicates reduced payment for June 2022 and December 2022.

### Analysis

- Does the Notice end the tenancy?

As the Tenant stopped paying rent and did not demonstrate a lawful reason to withhold rent, I find the Landlord had reason to give the Notice and it has been properly completed.

I find the Notice has ended the tenancy effective today. The Landlord is entitled to an order of possession.

- Does the Tenant owe unpaid rent?

The Tenant admitted to \$6000 in arrears and failure to pay any rent for March, April and May 2023. I find the Landlord is entitled to unpaid rent in the amount of \$9585.

- Is the Landlord entitled to recover the Filing Fee?

As the Landlord was successful with their application, the Landlord is entitled to recover their \$100 filing fee from the Tenant.

- Is the Tenant entitled to recover the Filing Fee?

As the Tenant was not successful with their application, the Tenant is not entitled to recover their \$100 filing fee.

### Conclusion

The Tenant's application is dismissed.

The Landlord is granted an order of possession effective two days after service. The Landlord should serve the order to the Tenant immediately. Should the Tenant fail to comply, the order may be enforced in the BC Supreme Court.

The Landlord is ordered to retain the Tenant's \$1175 in deposits in partial satisfaction of the monetary award for unpaid rent and Filing Fee.

The Landlord is granted a monetary award of \$8510 ( $9585 + 100 - 1175 = 8510$ ). The Landlord should serve the order to the Tenant immediately. Should the Tenant fail to pay, the order may be enforced in the Small Claims division of Provincial 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 17, 2023

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Residential Tenancy Branch