



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

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

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), this hearing dealt with the Tenant's May 9, 2023 application to cancel a 10-Day Notice for Unpaid Rent and Utilities (Notice) and the Landlord's May 17, 2023 application for an order of possession and monetary order for unpaid rent. Both the Landlord and the Tenant requested reimbursement of the filing fee.

### Issues to be Decided

1. Did the Tenants fail to pay rent when due?
2. Is the Landlord entitled to an order of possession and a monetary order for unpaid rent?
3. Is either party entitled to reimbursement for the filing fee?

### Background and Evidence

The tenancy commenced on March 1, 2022 for a fixed term to February 29, 2024, and thereafter to continue on a month-to-month basis. The monthly rent was \$2,400.00 due on the first day of each month. The Landlord collected a security deposit in the amount of \$1,200.00, which he continues to hold in trust.

The Landlord issued the Notice on May 3, 2023 with an effective date of May 13, 2023, for unpaid rent due May 1, 2023 in the amount of \$2,400.00. The Tenant timely applied for dispute resolution to cancel the Notice.

At the hearing, the Landlord provided undisputed testimony that the Tenant had been renting to third parties without the Landlord's consent. The Landlord's representative advised that as of June 26, 2023 the rental unit was vacant. The Landlord testified that rent had not been paid for May and June, 2023. The Landlord requested that the security deposit be applied toward the outstanding amount of rent.

### Analysis

Section 46(1) of the Act provides that a landlord may end a tenancy any day after the day rent is due but unpaid, effective 10 days from the date the tenant receives the notice.

In this case, the undisputed evidence establishes that the Tenant failed to pay rent for May and June, 2023. A copy of the Notice was submitted into evidence and complies with section 52 of the Act.

During the hearing, the Landlord requested that the security deposit, and any accrued interest, be off-set against any unpaid rent.

After consideration of the evidence and testimony, I find that the Tenant has failed to pay rent for May and June, 2023. I find that the tenancy has ended effective the date the rental unit became vacant and the Landlord had possession on June 26, 2023.

### Conclusion

I dismiss the Tenant's application to cancel the Notice issued May 3, 2023, without leave to re-apply. The tenancy has ended and the Landlord has possession of the rental unit.

I find the Landlord is the successful party in this matter and award the Landlord reimbursement of the filing fee. I make a monetary order for the Landlord in the amount of \$3,288.44, calculated as follows:

- \$2,000.00 in unpaid rent pro-rated to June 26, 2023;
- \$2,400.00 in unpaid rent for May, 2023;
- \$100.00 reimbursement for the filing fee;
- less an offset of the security and deposit in the amount of \$1,200.00 and plus \$11.56 interest owed on the deposit.

The Landlord is provided with an Order on the above terms. Should the Tenant fail to comply with the Order, the Order may be filed and enforced as an Order of the Provincial Court of British Columbia.

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: July 4, 2023

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Residential Tenancy Branch