



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Select Real Estate Property Management
Division and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, **OPR-DR, MNR-DR, FFL**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of One Month Notice to End Tenancy for Cause ("One Month Notice") pursuant to section 47;

This hearing also dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An Order of Possession under a 10-Day Notice to End Tenancy for Unpaid Rent and Utilities ("10 Day Notice") pursuant to sections 46 and 55;
- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- An order requiring the tenant to reimburse the landlord for the filing fee pursuant to section 72.

The landlord attended through the agent S.S. ("the landlord"). The landlord had opportunity to provide affirmed testimony, present evidence and make submissions.

Preliminary issues were the following.

1. Attendance

The landlord attended and acknowledged service of the tenant's Application for Dispute Resolution and Notice of Hearing.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 27 minutes to allow the tenant the opportunity to call.

The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

2. Dismissal of Tenant's Application

Rule 7.3 of the Rules of Procedure provides that 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.

Rule 7.4 states that 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 to present evidence, any written submissions supplied may or may not be considered. Only the evidence referred to by the landlord was used in this decision.

As the tenant has not attended the hearing and presented evidence, and the landlord has attended, I dismiss the tenant's application without leave to reapply.

3. Service of Landlord's ADR

The landlord provided testimony and supporting documentary evidence of having served the tenant with their Notice of Hearing and Application for Dispute Resolution on June 29, 2023. The landlord submitted a signed and witnessed Proof of Service.

Further to the landlord's evidence, I find the landlord served the tenant with the documents in compliance with the Act.

4. Order of Possession

I informed the landlord of the following.

If I dismissed the tenant's application to cancel the Notice issued in compliance with the Act, I am required under section 55 of the Act to grant an Order of Possession in favour of the landlord.

Section 55 states as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The landlord requested an Order of Possession.

5. Monetary Order - Amendment

The landlord requested an amendment to their claim to reflect additional outstanding rent in the amount of **\$1,650.00 for July 2023 and \$1,650.00 for August 2023 for a total claim of outstanding rent of \$4,950.00.**

The landlord submitted a copy of the 10 Day Notice dated June 5, 2023. They stated the tenant did not pay the rent and rent for two subsequent months has also not been paid.

The landlord clarified their claim for a monetary award as follows:

ITEM	AMOUNT
Outstanding rent	\$4,950.00
Filing fee	\$100.00
(Less security deposit)	(\$825.00)
TOTAL MONETARY ORDER REQUESTED	\$4,225.00

I granted the landlord an amendment to their claim to increase the amount requested as outstanding rent to reflect accumulated unpaid rent since the issue of the 10 Day Notice.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and a Monetary Order?

Background and Evidence

The landlord provided uncontradicted evidence regarding the tenancy as the tenant did not attend the hearing. The landlord testified as follows.

The tenancy began Nov 1, 2022, for \$1,650.00 monthly payable on the first of the month. The tenant paid the landlord a security deposit of \$825.00 which the landlord holds.

10 Day Notice

The landlord testified the tenant did not pay rent due June 1, 2023.

The landlord issued a 10 Day Notice dated June 2, 2023, and posted it to the tenant's door that day. Service was therefore effective under the Act 3 days later, on June 5, 2023.

A copy of the Notice was submitted which was in the standard RTB form. The Notice required the tenant to vacate the premises for non-payment of rent.

The tenant did not apply to dispute the 10 Day Notice.

The landlord testified the tenant did not pay the outstanding rent within the five-day period after service and remains in the unit.

The current balance of outstanding rent is **\$4,950.00**.

The landlord requested a Monetary Order and an Order of Possession effective on 2 days' notice.

Security deposit and filing fee

The landlord requested authorization to apply the security deposit to the award and reimbursement of the filing fee of \$100.00.

Summary

ITEM	AMOUNT
Outstanding rent	\$4,950.00
Filing fee	\$100.00
(Less security deposit)	(\$825.00)
TOTAL MONETARY ORDER REQUESTED	\$4,225.00

Analysis

The landlord has provided credible evidence which I accept in its entirety.

To be effective, the 10 Day Notice must comply with the provisions of Section 52. I find the 10 Day Notice complied with Section 52 of the Act.

I find the 10 Day Notice was properly served upon the tenant pursuant to Sections 88 and 90 of the Act.

A tenant may dispute a 10 Day Notice under Section 46 by making an application for dispute resolution within five days after the date the tenant receives the notice. The tenant has not done either.

In accordance with section 46(5) of the Act, I find the tenant is conclusively presumed to have accepted the end of this tenancy on June 15, 2023, the effective date on the 10 Day Notice. In this case, the tenant and anyone on the premises were required to vacate the premises by June 15, 2023

I accept the landlord's credible testimony and find the landlord has proven the amount of rent owing. Further to section 72, I award the landlord authority to apply the security deposit to the monetary award and reimbursement of the filing fee.

Accordingly, I grant the landlord a monetary award pursuant to section 67 in the amount **\$4,225.00**.

In summary, I grant the landlord a monetary order as follows:

ITEM	AMOUNT
Outstanding rent	\$4,950.00
Filing fee	\$100.00
(Less security deposit)	(\$825.00)
TOTAL MONETARY ORDER REQUESTED	\$4,225.00

In summary, I dismiss the tenant's application to cancel the One Month Notice without leave to reapply.

Pursuant to the 10 Day Notice, I grant the landlord an Order of Possession effective on two days' notice. I grant the landlord a Monetary Order in the amount of **\$4,225.00**.

Conclusion

The tenant's application to cancel the One Month Notice is dismissed without leave to reapply.

Under the landlord's application, I grant an Order of Possession and a Monetary Order under the 10 Day Notice.

I grant the landlord an Order of Possession which is effective two days after service on the tenant.

I also grant the landlord a Monetary Order in the amount of **\$4,225.00**.

These Order(s) must be served on the tenant. They may be filed and enforced in the Courts of the Province of BC.

If the tenant fails to comply with the Order(s), the landlord may file Order(s) with the Courts of British Columbia to be enforced as Order(s) 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: August 25, 2023

Residential Tenancy Branch