



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 600825 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

This hearing was scheduled to convene at 11:00 a.m. on September 15, 2023 by way of conference call concerning an application made by the landlord seeking an order of possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application. The application was originally made by way of the Direct Request process, which was adjourned to this participatory hearing, and an Interim Decision dated July 10, 2023 was provided to the landlord.

The landlord was represented at the hearing by an agent who gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord testified that the tenant was served with the Notice of Dispute Resolution Proceeding, all evidence and the Interim Decision dated July 10, 2023 by registered mail on July 12, 2023. The landlord's Proof of Service Notice of dispute Resolution Proceeding Package indicates a tracking number assigned by Canada Post, and states that the documents were served on July 12, 2024, which the landlord's agent testified is an error. I accept that because July 12, 2024 is almost a year away. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy For Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

### Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on November 1, 2022 and the tenant still resides in the rental unit. Rent in the amount of \$950.00 is payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$475.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment suite, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that on May 9, 2023 the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice); a neighbour posted it to the door of the tenant's rental unit. A copy of the Notice has been provided for this hearing and it is dated May 9, 2023 and contains an effective date of vacancy of May 19, 2023 for unpaid rent in the amount of \$1,900.00 that was due on May 1, 2023. The tenant has not disputed the Notice and the landlord seeks an order of possession.

Arrears have continued to accumulate, and the tenant is now in arrears the sum of \$5,700.00 for unpaid rent for April through September, 2023.

I questioned the landlord's agent about discrepancies contained in the application and evidentiary material. The application states that the rental unit is Unit 103; the tenancy agreement states Unit 102, which is crossed off and Unit 203 is written in its place. The 10 Day Notice to End Tenancy For Unpaid Rent or Utilities specifies Unit 102. The landlord's agent testified that things got mixed up with another rental unit, and when the landlord's agent read the Interim Decision, he responded to those errors in correspondence with the Residential Tenancy Branch, but did not provide corrected evidence.

### Analysis

Where a landlord seeks an order of possession and/or a monetary order for unpaid rent or utilities, the onus is on the landlord to establish that the 10 Day Notice to End Tenancy For Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*. In this case, there are several discrepancies preventing me from ascertaining if the tenant was served with the Notice in accordance with the law, and that the evidence is complete and correct. I find that the landlord has not done so.

Based on the evidence before me, I dismiss the landlord's application for an order of possession without leave to reapply. If rent remains unpaid, the landlord may issue a new 10 Day Notice to End Tenancy For Unpaid Rent or Utilities.

Since the documentation is incorrect, I dismiss the landlord's application for a monetary order for unpaid rent with leave to reapply.

Since the landlord has not been successful with the application, the landlord is not entitled to recovery of the filing fee.

### Conclusion

For the reasons set out above, the landlord's application for an order of possession is hereby dismissed without leave to reapply.

The landlord's application for a monetary order for unpaid rent is hereby dismissed with leave to reapply.

The landlord's application for recovery of the filing fee for this application is hereby dismissed without leave to reapply.

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: September 15, 2023

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Residential Tenancy Branch