



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, FFT

### Introduction

This hearing was scheduled to convene at 11:00 a.m. on September 8, 2023 concerning an application made by the tenants seeking an order cancelling a notice to end the tenancy for unpaid rent or utilities and to recover the filing fee from the landlord for the cost of the application.

The landlord attended the hearing and gave affirmed testimony, however the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenants joined the call.

Since the tenants have not attended the hearing, I dismiss the tenants' application in its entirety without leave to reapply.

The landlord advised at the commencement of the hearing that the tenants have vacated the rental unit, and the landlord has possession.

The *Residential Tenancy Act* states that where a tenant makes an application to cancel a notice to end a tenancy for unpaid rent or utilities, I must grant an order requiring the payment of the unpaid rent:

**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.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

The landlord gave affirmed testimony, and advised that the tenants were served with the landlord's evidentiary material, all of which has been reviewed and is considered in this Decision.

#### Issue(s) to be Decided

Has the landlord established a monetary claim as against the tenants for unpaid rent?

#### Background and Evidence

The landlord testified that this fixed-term tenancy began on February 16, 2022 and reverted to a month-to-month tenancy after August 15, 2022. Rent in the amount of \$1,650.00 was originally payable on the 1<sup>st</sup> day of each month, which was increased by the amount permitted to \$1,685.00 effective March 1, 2023. On January 18, 2022 the landlord collected a security deposit from the tenants in the amount of \$825.00 as well as a pet damage deposit in the amount of \$825.00, both of which have been returned in full to the tenants. A copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for unpaid rent in the amount of \$1,685.00 that was due on July 1, 2023. The tenants did not pay the rent, and no rent has been received for August, 2023; leaving a balance due to the landlord of \$3,370.00.

The landlord has also provided a copy of a One Month Notice to End Tenancy For Cause dated June 15, 2023 and containing an effective date of vacancy of July 31, 2023 for repeated late rent. The tenants did not dispute it, but indicated that they would vacate the rental unit only if the landlord returned the security deposit and pet damage deposit to the tenants. The landlord did so, and the tenants vacated the rental unit on the evening of August 24, 2023.

#### Analysis

The law states that a tenant must pay rent in full when it is due. In this case, I accept the undisputed testimony of the landlord that the tenants are in arrears of rent the sum of \$1,685.00 for each of the months of July and August, 2023. Therefore, I grant a

monetary order in favour of the landlord as against the tenants in the amount of \$3,370.00. The tenants must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

Since the landlord has possession of the rental unit, I decline to grant an order of possession in favour of the landlord.

### Conclusion

For the reasons set out above, the tenants' application is hereby dismissed in its entirety without leave to reapply.

I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,370.00.

This order is final and binding and may be enforced.

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 11, 2023

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Residential Tenancy Branch