



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## DECISION

**Dispute Codes:** CNR, RR, RP, PSF, LRE, LAT, OPR-DR, MNR-DR, FFL

### Introduction

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) under sections 46 and 55 of the Act
- an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) under sections 46 and 55 of the Act
- a Monetary Order for unpaid rent under sections 26, 55 and 67 of the Act
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, under sections 27 and 65 of the Act
- an order for the landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- an order for the landlord to provide services or facilities required by law under section 27 of the Act
- an order to suspend or set conditions on the landlord's right to enter the rental unit under section 70(1) of the Act
- authorization to change the locks to the rental unit under section 70(2) of the Act
- authorization to recover the filing fee for this application from the tenant under section 72 of the Act

### Issue(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order for unpaid rent?

Is the Tenant entitled to an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided?

Is the Tenant entitled to an order for the Landlord to make repairs to the rental unit?

Is the Tenant entitled to an order for the Landlord to provide services or facilities required by law?

Is the tenant entitled to an order to suspend or set conditions on the landlord's right to enter the rental unit?

Is the Tenant entitled to authorization to change the locks to the rental unit?

Is the landlord entitled to recover the filing fee for this application from the tenant?

## **Background and Evidence**

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Both parties provided copies of the tenancy agreement that show this tenancy began on August 1, 2023, with a monthly rent of \$3650.00, due on first day of the month, with a security deposit and pet damage deposit in the amount of \$1825.00 each. The tenant is responsible for 1/3 of water and electricity bills.

The 10 Day Notice is signed October 2, 2023, with a move out date of October 2, 2023. It requests \$4300.00 in unpaid rent due October 1, 2023. The landlord provided a copy of an email dated October 2, 2023, sent to the tenants at their email address provided for service in the Tenancy Agreement; attached was the 10 Day Notice.

There is an addendum to the tenancy agreement for liquidated damages that states the tenant will pay one month of rent if the tenant breaches a material term that causes the landlord to end the tenancy before the end of the fixed term.

Both parties agree that \$650.00 of rent for September 2023, and all of rent for October and November of 2023 remains unpaid.

The tenant affirms not receiving a 30 day written request for payment of utilities and the landlord has not provided a copy of such.

The tenant affirms that he withheld rent because of sewer issues and the landlord restricting access to parts of the property.

The tenant affirms no longer staying at the rental unit as of the last week of September but has left belongings behind and frequently visits the rental unit specifically to preserve the tenancy and avoid abandonment.

## **Analysis**

### **Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?**

I find that the 10 Day Notice was duly served to the tenant on October 5, 2023, and the rent for part of September, and all of October and November of 2023 remains unpaid. Therefore, I find that the landlord is entitled to an Order of Possession based on the 10 Day Notice under sections 46 and 55 of the Act.

### **Is the landlord entitled to a Monetary Order for unpaid rent?**

Unpaid utilities were not considered as parties provided differing testimony regarding the issuance of a 30 Day Written Notice requesting the payment of unpaid utilities and no copy of such was provided.

However, I find that the landlord has established a claim for \$7950.00 in unpaid rent as follows:

September 2023 unpaid rent	\$650.00
October 2023 unpaid rent	\$3650.00
November 2023 unpaid rent	\$3650.00
<b>Total</b>	<b>\$7950.00</b>

Therefore, I find the landlord is entitled to a Monetary Order for unpaid rent under section 67 of the Act.

I further find the landlord has established, per the tenancy agreement addendum, a claim for liquated damages of \$3650.00, as the tenant has caused the landlord to end the tenancy before the end of the fixed term.

**Is the Tenant entitled to an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided?**

The tenant did not provide sufficient evidence of repairs, services or facilities agreed upon but not provided. Therefore, this issue is dismissed, without leave to reapply.

**Is the Tenant entitled to an order for the Landlord to make repairs to the rental unit?**

As the 10 Day Notice was not cancelled and the landlord is being given an Order of Possession, this issue was not adjudicated and is dismissed, without leave to reapply.

**Is the Tenant entitled to an order for the Landlord to provide services or facilities required by law?**

As the 10 Day Notice was not cancelled and the landlord is being given an Order of Possession, this issue was not adjudicated and is dismissed, without leave to reapply.

**Is the tenant entitled to an order to suspend or set conditions on the landlord's right to enter the rental unit?**

As the 10 Day Notice was not cancelled and the landlord is being given an Order of Possession, this issue was not adjudicated and is dismissed, without leave to reapply.

**Is the Tenant entitled to authorization to change the locks to the rental unit?**

As the 10 Day Notice was not cancelled and the landlord is being given an Order of Possession, this issue was not adjudicated and is dismissed, without leave to reapply.

**Is the landlord entitled to recover the filing fee for this application from the tenant?**

As the landlord was successful in their application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

**Conclusion**

I grant an Order of Possession to the landlord **effective two (2) days after service of this Order on the tenant(s)**. Should the tenant(s) or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 55 and 72 of the Act	\$7950.00
a Monetary Order for liquidated damages under section 67 and 72 of the Act	\$3650.00
authorization to recover the filing fee for this application from the Choose an item. under section 72 of the Act	\$100.00
<b>Total Amount</b>	<b>\$11,700.00</b>

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: December 11, 2023

Residential Tenancy Branch