



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding HOLLYBURN PROPERTIES  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNR, OPR, MNRL-S, FFL

### **Introduction**

This hearing dealt with the tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- 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 55 and 72 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 landlord entitled to recover the filing fee for this application from the tenant?**

### **Preliminary Matters**

The tenant requests an adjournment as he affirms he has a medical appointment at the same time as the hearing. The tenant did not upload evidence of a medical appointment. The tenant also affirms giving notice to the landlord of said medical appointment on November 17, 2023.

As the tenant did not provide any supporting evidence and had at least 3 weeks to find an agent to act on his behalf at this hearing, I find an adjournment is not necessary and the hearing will continue.

At the hearing the landlord sought to increase their monetary claim from \$2743.54 to \$5487.08 to reflect the tenant's failure to pay \$2743.54 in monthly rent for December 2023, the additional month of unpaid rent waiting for this hearing.

Residential Tenancy Branch Rules of Procedure, Rule 4.2, states that in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing. I allow the amendment as this was clearly rent that the tenant would have known about and resulted since the landlord submitted the application.

### **Background and Evidence**

The tenant provided a copy of the 10 Day Notice; it is signed November 3, 2023, with a move out date of November 15, 2023. The 10 Day Notice requests \$2743.54 that was due on November 1, 2023.

The tenant also provided a copy of the landlord's Proof of Service RTB-34 stating that the 10 Day Notice was posted to the tenant's door on November 3, 2023. The form is signed by a witness.

Both parties agree the 10 Day Notice was given for unpaid rent for November 2023.

Both parties also agree the tenant has unpaid rent for November and December of 2023. The tenant affirms that this rent is unpaid because he has had trouble with Veteran Affairs and was not receiving payments from them properly.

### **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 November 6, 2023, and the rent for November and December of 2023 remains unpaid.

The reason provided by the tenant for not paying rent is not a reason allowed under the Act to withhold rent.

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?**

I find that the landlord has established a claim for \$5487.08 in unpaid rent for November and December of 2023. Therefore, I find the landlord is entitled to a Monetary Order for unpaid rent under section 55 and 72 of the Act.

**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 December 31, 2023**, 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.

I grant the landlord a Monetary Order in the amount of **\$5587.08** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 55 of the Act	<b>\$5487.08</b>
authorization to recover the filing fee for this application from the tenant under section 72 of the Act	\$100.00
<b>Total Amount</b>	<b>\$5587.08</b>

The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlord may retain the security deposit as partial satisfaction of this Monetary Order.

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 07, 2023

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Residential Tenancy Branch