



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### **Introduction**

This hearing dealt with cross – applications for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

The Tenant applied for:

- cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under sections 46 and 55 of the Act

The Landlord applied for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

### **Service of Evidence**

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

## **Issues 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 the recovery of the filing fee for this application?

## **Background and Evidence**

Evidence was provided showing that this tenancy began on October 1, 2023, with a monthly rent of \$1,956.00, due on the first of each month, with a security deposit in the amount of \$979.00 and a pet deposit of \$200.00. AP testified that on September 9, 2024, she served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for unpaid rent in the amount of \$6,273.00. AP testified that the tenants did not pay any of that outstanding rent which dated back to June 2024 and also failed to pay the October rent. AP testified that the tenants moved out a day before this hearing and only requests half of Octobers rent as they have now vacated, leaving an outstanding balance of \$7,251.00. AP requests a monetary order.

## **Analysis**

### **Is the Landlord entitled to an Order of Possession based on a Notice to End Tenancy?**

The Landlord advised that the tenants moved out of the unit and therefore no longer requires an order of possession, accordingly; I dismiss this portion of the Landlords application.

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

Section 55(1.1) of the Act states that if a tenant makes an application to set aside a landlord's notice to end a tenancy under section 46 of the Act for non-payment of rent, and the application is dismissed, the Arbitrator must grant the landlord an order requiring the repayment of the unpaid rent if the notice complies with section 52 of the Act. I find that the Notice complies with section 52 of the Act.

Therefore, I find the Landlord is entitled to a Monetary Order for unpaid rent in the amount of \$7,251.00. Using the offsetting provision under section 72 of the Act I order that the Landlord retain the \$979.00 security deposit, \$200.00 pet deposit and \$31.05 in accrued interest in partial satisfaction of the claim. The Landlord is entitled to a monetary order for the remaining balance of \$6,040.95.

### **Is the Tenant entitled to recover the filing fee for this application from the Landlord?**

As the Landlord was successful in this application, they are entitled to recover the filing fee for this application from the Tenant under section 72 of the Act.

### **Conclusion**

I grant the Landlord a Monetary Order in the amount of **\$6,140.95** under the following terms:

<b>Monetary Issue</b>	<b>Granted Amount</b>
a Monetary Order for unpaid rent under section 55 of the Act	\$6,040.95
Recovery of filing fee	100.00
<b>Total Amount</b>	<b>\$6,140.95</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 and enforced in the Provincial Court of British Columbia (Small Claims Court) if equal to or less than \$35,000.00. Monetary Orders that are more than \$35,000.00 must be filed and enforced in the Supreme Court of British Columbia.

The Tenant's application for cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under sections 46 and 55 of the Act is 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: October 16, 2024

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Residential Tenancy Branch