



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Municipal Affairs

A matter regarding LONG LONG PROPERTY LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR OLC OPR MNR FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on January 14, 2025. Both parties applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing and provided affirmed testimony. Both parties confirmed receipt of each other’s Notice of Dispute Resolution Proceeding and evidence packages and did not take issue with the service of these documents. I find both parties sufficiently served the above noted packages for the purposes of this proceeding.

The Tenant initially requested an adjournment, due to being in the hospital. However, after discussing the scope of the hearing, he was okay proceeding without an adjournment.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Issues

Both parties are seeking multiple remedies under multiple sections of the *Act*, a number of which were not sufficiently related to one another. Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and

that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues both parties applied for, and based on the evidence before me, I find the most pressing and related issues in this cross-application are related to the payment/non-payment of rent and the order of possession (whether or not the tenancy will continue, or end, based on the 10 Day Notice) As a result, I exercise my discretion to dismiss, with leave to reapply, the Tenant's request for an order for the Landlord to comply with the Act.

#### Issues to be Decided

- Should the 10 Day Notice to End Tenancy be cancelled?
  - If not, is the landlord entitled to an Order of Possession?
- Is the landlord entitled to a monetary order for unpaid rent or utilities based off the Notice?

#### Background and Evidence

Both parties agreed in the hearing that monthly rent in the amount of \$2,190.00 was to be paid on the first of each month.

The Landlord stated that the Tenant failed to pay any rent from August 2024 through until January 2025, except for one \$500.00 payment in September 2024, and now owes \$12,640.00 in rent for these months. The Tenant did not dispute that these amounts remain unpaid, and stated that it was because he was robbed sometime in August.

The Tenant acknowledged receiving the Notice on December 12, 2024. A copy of the Notice was provided into evidence, and it lists that at the time the Notice was issued, \$10,450.00 was overdue as of December 1, 2024. No rent was paid following that time.

#### Analysis

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy under this section has five days after receipt to either pay rent in full or dispute the notice by filing an application for dispute resolution.

I find the Notice was received by the Tenants on December 12, 2024, which is the day he acknowledged receiving it. Further, the undisputed testimony of both parties is that no rent was paid after the Notice was issued. I do not find that being robbed is a valid reason under the Act to not pay rent.

There are five situations when a tenant may deduct money from the rent:

1. The tenant has an arbitrator's decision allowing the deduction
2. The landlord illegally increases the rent
3. The landlord has overcharged for a security or pet damage deposit
4. The landlord refuses the tenant's written request for reimbursement of emergency repairs
5. The tenant has the landlord's written permission allowing a rent reduction

I find no evidence that the Tenant had any legal basis to withhold rent.

As rent has not been paid when due, and there is insufficient evidence before me that the Tenant had a right under the *Act* to deduct all or a portion of rent, I find that the Tenant's Application is dismissed. When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a landlord. Having reviewed the 10 Day Notice, I find it complied with section 52 of the *Act*. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective 7 days after it is served on the Tenant.

Next, I turn to the Landlord's request for a monetary order for unpaid rent. After considering the evidence before me, I find there is sufficient evidence to demonstrate that the tenant owes and has failed to pay rent for the months of August 2024 – January 2025 (less one \$500.00 payment), totalling \$12,640.00.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was substantially successful in this hearing, I order the tenant to repay the \$100. The Tenant's request for the filing fee is dismissed. In summary, I grant the monetary order based on the following:

### Conclusion

The Tenant's application to cancel the 10 Day Notice is dismissed.

The landlord is granted an order of possession effective **7 days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$12,740.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: January 14, 2025

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Residential Tenancy Branch