



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Municipal Affairs

## DECISION

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

---

### **Introduction**

---

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") pursuant to section 46.

This hearing also dealt with an application by the Landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*.

The Landlord s attended (the Landlord).

The Tenant did not attend.

## **Preliminary Matters**

### *1. Service by the Tenant*

The Landlord testified the Tenant did not serve them with their application. They did not know the Tenant had applied to cancel the 10 Day Notice until the RTB told them.

I accept the Landlord's uncontradicted testimony and find the Tenant did not serve the Landlord in compliance with the Act.

### *2. Service by the Landlord*

The Landlord testified they served each Tenant with the Proceeding Package and the Evidence by registered mail sent on January 21, 2025. They submitted a copy of the tracking information including the tracking number.

I accept the Landlord's testimony as supported by evidence. I find the Landlord served the Tenant in compliance with sections 89 and 90 of the Act.

### *3. Dismissal of Tenant's Application*

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 34 minutes to allow the tenant the opportunity to call.

The teleconference system indicated only the Landlord , and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

Rule 7.3 of the *Rules of Procedure* provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party or dismiss the application with or without leave to re-apply.

Rule 7.4 states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend to present evidence, any written

submissions supplied may or may not be considered. Only the evidence referred to by the Landlord was used in this decision.

As the tenant has not attended the hearing and presented evidence, and the Landlord has attended, I dismiss the tenant's application without leave to reapply.

#### **4. Amendment**

The Landlord sought to amend their claim to increase their monetary award to \$4,325.00 to reflect rent accrued since the issuance of the 10 Day Notice. The 10 Day Notice was issued January 4, 2025 and rent for the month of February 2025 has subsequently accrued.

*Residential Tenancy Branch Rules of Procedure*, Rule 4.2, states that in circumstances that can 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 find the tenant could reasonably anticipate the Landlord's claim would be amended to include unpaid rent that accumulated after the Landlord filed the dispute. The amendment would not be prejudicial to the tenant.

Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the Landlord's application as requested.

#### **Issue(s) to be Decided**

---

Is the Landlord entitled to an Order of Possession based on the 10 Day Notice?

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

#### **Background and Evidence**

---

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

The Landlord provided uncontradicted evidence as the Tenant did not attend the hearing.

### *Tenancy*

The Landlord testified that this tenancy began on November 1, 2024, with a monthly rent of \$2,100.00, due on first day of the month, with a security deposit of \$550.00 and a pet deposit in the amount of \$550.00.

The Landlord holds the deposits.

### *Arrears*

The Landlord submitted copies of bank transfers showing rent payments made by the Tenant and testified as follows.

1. The Tenant was in arrears of rent of \$2,225.00 when the Landlord issued the 10 Day Notice on January 5, 2025.
2. The Tenant has made no payment on rent since December 4, 2024. Rent has subsequently accrued for February 2025 and the arrears are now \$4,325.00.
3. The Landlord requested an Order of Possession effective on two days notice pursuant to the 10 Day Notice and a Monetary Order for outstanding rent of \$4,325.00.

### *10 Day Notice*

The Landlord testified as follows:

4. The Landlord issued a 10 Day Notice dated January 5, 2025.
5. The 10 Day Notice is in the standard RTB form. The Landlord submitted a signed and dated copy.
6. The 10 Day Notice stated the Tenant was in arrears of rent of \$2,225.00.
7. The Landlord posted the 10 Day Notice to the Tenant's door on January 5, 2024 and submitted a Proof of Service document in the standard RTB form #34.
8. The Tenant applied to dispute the 10 Day Notice on January 9, 2025.

9. The Tenant has not made any payment on rent since December 4, 2024.
10. The Tenant is in arrears \$4,325.00.
11. The Tenant disputed the 10 Day Notice on February 4, 2025. The Tenant's application has been dismissed without leave to reapply.
12. The Tenant did not pay the amount owing or make any payment on arrears.
13. The Tenant remains in the unit.

The Landlord requested an Order of Possession and a Monetary Order for \$4,325.00.

## **Analysis**

---

The Landlord provided credible uncontradicted evidence which I accept in its entirety. The Tenant did not attend the hearing although served.

To be effective, the 10 Day Notice must comply with the provisions of Section 52. I find the 10 Day Notice complied with Section 52 of the Act.

I find the 10 Day Notice was properly served upon the Tenant on January 5, 2025 pursuant to Sections 88 and 90 of the Act. The Landlord served the 10 Day Notice by posting to the door; therefore, the effective date of service was January 8, 2025.

A Tenant may dispute a 10 Day Notice under Section 46 by making an application for dispute resolution within five days after the date the Tenant receives the notice. The Tenant applied to dispute the 10 Day Notice on January 9, 2025. I have dismissed the Tenant's application without leave to reapply.

Section 46(5) of the Act states that if a tenant who has received a notice under this section 46 (a 10 Day Notice) does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit to which the notice relates by that date.

Therefore, in accordance with section 46(5), I find the Tenant is conclusively presumed to have accepted the end of this tenancy on January 28, 2025, the corrected effective date on the 10 Day Notice.

In this case, the Tenant and anyone on the premises were required to vacate the premises by January 28, 2025. The Tenant remains in the unit.

I accept the Landlord's credible testimony and amendment. I find the Landlord has proven the amount of rent owing of \$4,325.00.

Accordingly, I grant the Landlord a monetary award pursuant to section 67 in the amount \$4,325.00.

In summary:

1. I dismiss the Tenant's application to cancel the 10 Day Notice without leave to reapply.
2. Pursuant to the 10 Day Notice, I grant the Landlord an Order of Possession effective on two days' notice after service on the Tenant.
3. I grant the Landlord a Monetary Order for outstanding rent in the amount of \$4,325.00.

The Order of Possession and Monetary Order must be served on the Tenant. They may be filed and enforced in the Courts of the Province of BC.

If the Tenant fails to comply with the Order of Possession, the Landlord may file Order(s) with the Courts of British Columbia to be enforced as Order(s) of that Court.

### Conclusion

1. I dismiss the Tenant's application to cancel the 10 Day Notice without leave to reapply.
2. I grant the Landlord's application.
  - a. Pursuant to the 10 Day Notice, I grant the Landlord an Order of Possession effective on two days' notice after service on the Tenant.

- b. I grant the Landlord a Monetary Order for outstanding rent in the amount of \$4,325.00.

The Order of Possession and Monetary Order must be served on the Tenant . They may be filed and enforced in the Courts of the Province of BC.

If the Tenant fails to comply with the Order of Possession, the Landlord may file Order(s) with the Courts of British Columbia to be enforced as Order(s) 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: February 04, 2025

---

Residential Tenancy Branch