

DECISION

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 One Month Notice to End Tenancy for End of Employment (One Month Notice) under section 48 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 requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

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

- an Order of Possession based on a One Month Notice to End Tenancy for Cause (One Month Notice) under sections 47 and 55 of the Act
- a Monetary Order for unpaid rent under section 67 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that Tenant was served in person in accordance with section 89(1) of the Act. The Landlord testified that they served the Tenant via email and registered mail, and provided proof of service via these methods.

I find that the Landlord was not served in accordance with the Act. The Landlord denied receiving any documentation from the Tenant. The Landlord said that they only learned of the Tenants' application as a result of their communications with the Residential Tenancy Branch.

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.

The Landlord's undisputed testimony was that they did not receive any evidence for consideration. I find that the Tenant's evidence was not served to the Landlord in accordance with section 88 of the Act.

Preliminary Matters

Attendance

The Tenant did not attend the hearing. 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 pursuant to Residential Tenancy Branch Rule of Procedure 7.3.

I conducted the dispute resolution hearing in the absence of the Tenant. I decided to proceed with the hearing having already determined the Tenant was served with the notice of dispute resolution hearing. I further find that as an applicant whose hearing was scheduled contemporaneously with the Landlords, the Tenant would have been aware of the hearing date and requirement to attend.

Rent Claim Increase

At the outset of the hearing the Landlord sought to increase their monetary claim to reflect the Tenant's failure to pay rent for May while awaiting for this hearing.

Residential Tenancy Branch Rules of Procedure, Rule 7.12, 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.

Tenant's Application Dismissed Without Leave to Re-apply

Residential Tenancy Branch Rule of Procedure 7.3 states 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. As the Tenants failed to attend the hearing, I have dismissed their application.

For reasons subsequently provided in this decision with respect to the Landlord's application, I find it is appropriate that the Tenant's application be dismissed without leave to reapply. Specifically, I have determined that the tenancy will end. Accordingly, the following issues are dismissed without leave to reapply:

- cancellation of the Landlord's One Month Notice to End Tenancy for End of Employment (One Month Notice) under section 48 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 requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

Issues to be Decided

Is the Landlord entitled to an Order of Possession based on the 1 Month Notice?

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?

Background and Evidence

Evidence was provided showing that this tenancy began on March 1, 2025, with a monthly rent of \$4,700.00, due on the first day of the month, with a security deposit in the amount of \$2,250.00.

On March 24, 2025, the Landlord served the Tenants with a One Month Notice to End Tenancy for Cause, alleging that the Tenants have been repeatedly late paying rent.

On April 3, 2025, the Tenant applied for dispute resolution, seeking cancellation of the Landlord's One Month Notice to End Tenancy for Cause, as well as other relief.

On April 16, 2025, the Landlord applied for dispute resolution, request an order of possession based upon their One Month Notice to End Tenancy for Cause. The Landlord also claimed compensation in relation to unpaid rent for the month of April.

At the hearing, the Landlord indicated that the Tenant had also failed to pay rent for May.

Analysis

Is the Landlord entitled to an Order of Possession based on the One Month Notice?

Section 47 of the Act states that a Landlord may issue a Notice to End Tenancy for Cause to a Tenant if the Landlord has grounds to do so. Section 47 of the Act states that upon receipt of a Notice to End Tenancy for Cause the Tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the Tenant files an application to dispute the notice, the Landlord bears the burden to prove the grounds for the One Month Notice.

A One Month Notice to End Tenancy for Cause was served to the Tenants son March 24, 2025. As the Tenants disputed this notice on April 3, 2025, I find that the Tenants applied to dispute the One Month Notice within the time frame allowed by section 47 of the Act. I find that the Landlord has the burden to prove that they have sufficient grounds to issue the One Month Notice.

The Landlord alleged that the Tenant had been repeatedly late paying rent.

Residential Tenancy Branch Policy Guideline #38 indicates that three late payments are the minimum number sufficient to justify a notice to end tenancy for cause. It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments. However, if the late payments are far apart an arbitrator may determine that, in the circumstances, the Tenant cannot be said to be “repeatedly” late.

The Landlord said that although rent was due on the first day of each month, the Tenant had paid rent after the first for the following months:

April	2024	
May	2024	
December	2024	
March	2025	Payment received on the 21st
April	2025	no rent received
May	2025	no rent received

The Landlord’s testimony was not disputed and I accept this information as accurate.

I find that the late payments that occurred in 2024 were sufficiently far apart that, in the circumstances, the Tenant cannot be said to be “repeatedly” late. However, I find that the March, April, and May late payments were consecutive and meet the threshold of being repeatedly late.

I find that the Notice complies with section 52 of the Act.

In summary, I am satisfied that the Tenant was repeatedly late paying rent on three occasions, these being the three most recent months. Therefore, I find that the Landlord is entitled to an Order of Possession.

I grant an Order of Possession to the Landlord effective **seven (7) days after service of this Order on the Tenant(s).**

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

Section 26 of the Act states that a Tenant must pay rent to the Landlord, regardless of whether the Landlord complies with the Act, regulations or tenancy agreement, unless the Tenant has a right to deduct all or a portion of rent under the Act.

Based on the Landlord's undisputed evidence which included a copy of their signed tenancy agreement, I find that the Landlord has established a claim for unpaid rent owing in the amount of \$4,700.00 for the month of April.

I further find that the Landlord has established a claim for unpaid rent in the amount of \$4,700.00 for the month of May.

Lastly, I find that the Landlord has established entitlement to compensation in the amount of \$21.00 in relation to expenses incurred in relation to cheques from the Tenant for the months of March, April, and May, which were returned by the bank with a \$7.00 charge for insufficient funds on each occasion.

Section 67 of the Act states that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

Therefore, I find the Landlord is entitled to a Monetary Order for unpaid rent under section 67 of the Act, in the amount of \$9,421.00.

In accordance with section 72 of the Act, in satisfaction of the monetary award I allow the Landlord to retain the Tenant's security deposit of \$2,250.00 plus interest in the amount of \$91.49, calculated as follows:

2023 \$2250.00: \$22.12 interest owing (1.95% rate for 50.41% of year)
2024 \$2250.00: \$61.46 interest owing (2.7% rate for 100.00% of year)
2025 \$2302.33: \$7.91 interest owing (0.95% rate for 36.16% of year)

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 seven (7) 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.

I grant the Landlord a Monetary Order in the amount of **\$7,179.51** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 67 of the Act	\$9,421.00
<i>Security Deposit</i>	\$2,341.49
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
Total Amount	\$7,179.51

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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: May 12, 2025

Residential Tenancy Branch