

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 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under sections 46 and 55 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 to allow access to or from the rental unit for the Tenant or the Tenant's guests under sections 30 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 to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

This hearing also dealt with the Landlord's Application for Dispute Resolution under the Act for:

- an order of possession based on the 10 Day Notice under section 46 of the Act
- a monetary order for unpaid rent and unpaid utilities under section 26 of the Act
- a monetary order to recover the filing fee under section 72 of the Act

The Tenant attended the hearing on their own behalf with a witness. No one attended the hearing for the Landlord.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

Based on the Tenant's evidence, I accept that the Tenant placed the Proceeding Package in the Landlord's mailbox, although they could not recall the exact date. While I find that this method of service was insufficient, I place considerable weight on the nature of this application. As this is a cross-application, the Landlord would have been aware of the date, time, and call-in details for the teleconference, as these are identical

to those in their own application. Accordingly, I find that the Landlord was sufficiently served in accordance with section 71(2)(b) of the Act.

Service of Evidence

The Tenant stated they did not serve their evidence on the Landlord. The Landlord was not present to verify or confirm the service of their evidence on the Tenant. Therefore, I have excluded all the evidence submitted, apart from the 10 Day Notice, and the handwritten tenancy agreement that I find to be already in the possession of both parties.

Preliminary Matters

1. Name Change

At the commencement of the hearing, the Tenant advised that their legal name was not correctly stated in their Application for Dispute Resolution and requested to amend the application. As the Landlord was not present at the hearing to object to the proposed amendment, I find that it is reasonable to allow the correction to reflect the accurate spelling of the parties' legal names. In accordance with Rule 7.12 of the Residential Tenancy Branch *Rules of Procedure*, the Tenant's first name has been amended as shown on the cover page of this decision.

2. Lack of Service, Dismiss with Leave to Reapply

Rule 3.5 of the Residential Tenancy Branch *Rules of Procedure* states that the director may dismiss an application, with or without leave to reapply, if the applicant cannot demonstrate that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and the Rules of Procedure.

As the Tenant could not establish service of the evidence relating to their claims requesting various forms of relief, I am exercising my discretion to dismiss the following issues indicated in the Tenant's application, with leave to reapply, under Rule 3.5 of the RTB Rules of Procedure:

- 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 to allow access to or from the rental unit for the Tenant or the Tenant's guests under sections 30 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 to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act

- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

Leave to reapply is not an extension of any applicable time limit.

Issues to be Decided

Should the Landlord's 10 Day Notice be cancelled?

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 and/or utilities?

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

Background and Evidence

The Landlord did not attend the hearing. The Tenant did not provide any evidence at this hearing apart from confirming service of the Proceeding Package and advising they did not serve their evidence.

Analysis

Should the Landlord's 10 Day Notice be cancelled?

As the Landlord has the onus to prove the validity of the 10 Day Notice, and the Landlord did not attend the hearing, I find the Landlord has not proven the validity of the 10 Day Notice on a balance of probabilities.

The 10 Day Notice dated April 8, 2025, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the Act.

Therefore, the Tenant's application is granted for cancellation of the 10 Day Notice under sections 46 and 55 of the Act.

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

As I have granted the Tenant's application to cancel the 10 Day Notice, I deny the Landlord's application for an Order of Possession based on the 10 Day Notice.

This matter is dismissed without leave to reapply.

Is the Landlord entitled to a Monetary Order for unpaid rent and/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.

As the Landlord has the onus to prove their claim for outstanding rent and utilities, and the Landlord did not attend the hearing, I find the Landlord has not proven there are outstanding arrears on a balance of probabilities.

This matter is dismissed without leave to reapply.

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

As the Landlord was not successful in this application, the Landlord's application for authorization to recover the filing fee for this application from the Tenant under section 72 of the Act is dismissed, without leave to reapply.

Conclusion

The Tenant's application to cancel the 10 Day Notice is granted. The 10 Day Notice is of no force or effect. The tenancy continues until it is ended in accordance with the Act.

The Landlord's application is dismissed in its entirety, 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 Act.

Dated: May 22, 2025

Residential Tenancy Branch