

## **DECISION**

### **Introduction**

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 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) under sections 46 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

This hearing also 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
- a Monetary Order for the cost of emergency repairs to the rental unit under sections 33 and 67 of the Act
- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 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 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

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

I find that the Tenant was served in accordance with the Act.

I find that the Landlord was 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.

Although the Tenant uploaded evidence to the Residential Tenancy Branch web portal, they confirmed that they did not serve any evidence to the Landlord. The Tenant explained that they did not know that they needed to do so. The Landlord did not object to the admission of the Tenant's rental receipts given that they had issued these.

## **Preliminary Matters**

### *Issues Severed*

*Residential Tenancy Branch Rules of Procedure*, Rule 6.2, states that if, in the course of the dispute resolution proceeding the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

I am exercising my discretion to dismiss the Tenant's request for the following orders with leave to reapply as these matters are not related:

- a Monetary Order for the cost of emergency repairs to the rental unit under sections 33 and 67 of the Act
- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 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 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.

### *Settlement- Tenancy Ending; Order of Possession*

During this hearing, the parties reached an agreement with respect to the Tenant's application for cancellation of the Landlord's 10 Day Notice to End Tenancy, and the Landlord's application for an Order of Possession based on the 10 Day Notice to End Tenancy.

Both parties agreed that this tenancy will end by **1:00 p.m. on May 12, 2025**, by which time the Tenant agreed to have vacated the rental unit.

### *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.

## **Issues to be Decided**

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?

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

## **Background and Evidence**

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

Evidence was provided showing that this tenancy began on May 1, 2023, with a monthly rent of \$2,639.00, which increased to \$2,718.00 on May 1, 2025. Rent is due on the first day of the month. The Landlord continues to hold a security deposit in the amount of \$1,275.00, and a pet damage deposit in the amount of \$1,275.00.

On April 14, 2025, the Landlord applied for dispute resolution, requesting an order of possession in relation to their 10 Day Notice to End the Tenancy for Unpaid Rent, as well as a monetary order in relation to the unpaid rent.

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

On April 24, 2025, the Tenant applied for dispute resolution, seeking to cancel the 10 Day Notice as well as the other relief previously noted in this decision.

### ***Unpaid Rent***

The Landlord said that the Tenant failed to pay rent for the month of March. The Tenant replied that he had provided a bank draft to the Landlord for his March rent and provided a copy of a receipt that he had received from the building manager.

The Landlord said that while the bank draft might have been received from the Tenant, it was never cashed and that the Landlord and Tenant had exchanged extensive

dialogue for the purpose of reconciling this. The Landlord also provided a copy of their ledger. Although the Tenant insisted that he was unable to obtain a new bank draft without knowing the number of the original bank draft, the Landlord provided copies of correspondence with the Tenant's financial institution showing that this information was not required.

During the course of the hearing, the Tenant explained that in order to obtain a new bank draft his financial institution required that he provide them with photo identification. The Tenant said that while he had been using his permanent residency card as well as his passport for photo identification purposes, his permanent residency card had recently expired and he had to relinquish his passport. He said that he is currently awaiting a new permanent residency card which will provide him with photo identification but that he does not know how long this will take.

## **Analysis**

### **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.

I find that the Landlord has established a claim for unpaid rent owing in the amount of \$2,639.00 for the month of March. While I do not doubt that the Tenant provided a copy of a bank draft to the Landlord, I am satisfied that this was not cashed by the Landlord. I further find it that it was the Tenants responsibility to obtain a replacement for the bank draft and that the Landlord provided ample time and accommodation for the Tenant to do so.

I further find that the tenancy ended on May 12, 2025, pursuant to the parties' agreement, and that the Landlord has established a claim for unpaid rent in the amount of \$1,052.13 (\$2,718.00 / 31 days in May x 12 days) for the period spanning May 1 through 12. I note that the Tenant's rent increased as of May 1, 2025, to \$2,718.00.

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 \$3,691.13 (\$2,639.00 + \$1,052.13).

In accordance with section 72 of the Act, in satisfaction of the monetary award I allow the Landlord to retain the Tenant's \$1,275.00 security deposit as well as the \$1,275.00 pet damage deposit plus interest in the amount of \$112.63

**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.

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

As the Tenant was not successful in their application, I find that the Tenant is not entitled to recover their filing fee. The Tenant's request to recover their filing fee is dismissed without leave to reapply.

**Conclusion**

In order to give effect to the settlement reached between the parties, and as discussed at the hearing, I grant an Order of Possession to the Landlord effective **on May 12, 2025, after service of this Order** on the Tenant. Should the Tenant or any occupant 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 **\$1,128.50** under the following terms:

<b>Monetary Issue</b>	<b>Granted Amount</b>
a Monetary Order for unpaid rent under section 67 of the Act	\$3,691.13
<i>Security Deposit</i>	-\$2,662.63
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
<b>Total Amount</b>	<b>\$1,128.50</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.

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

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Residential Tenancy Branch