

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 Tenants under section 72 of the Act

This hearing dealt with the Tenants' 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 for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- an order for the Landlord to comply with the Act, regulation, or tenancy agreement

Residential Tenancy Branch Rules of Procedure 7.4 enables the Arbitrator to restrict evidence under consideration to evidence referred to by the parties during the hearing.

In accordance with Residential Tenancy Branch Rules of Procedure 7.4, only the evidence referred to by the parties during the hearing will be considered.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

The Tenants confirmed service of the Proceeding Package. They received a copy from the Residential Tenancy Branch.

Tenant S.N. confirmed that they picked up both Tenants' Proceeding Package and Evidence from Canada Post.

The Landlord confirmed service of the Tenants' Proceeding Package and Evidence.

Preliminary Matters

The following claims in the Tenants' application were severed at the outset of the hearing:

- 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 comply with the Act, regulation, or tenancy agreement

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.

Aside from the application to cancel the 10 Day Notice, I am exercising my discretion to dismiss the above claims identified in the application, with leave to reapply as these matters are not related to the Landlord's application. Leave to reapply is not an extension of any applicable time limit.

At the outset of the hearing the Landlord's assistant testified that the Landlord provided the Tenants a written demand for the unpaid utilities.

Section 46(6) of the Act provides the following:

If

(a) a tenancy agreement requires the Tenant to pay utility charges to the Landlord, and

(b) the utility charges are unpaid more than 30 days after the Tenant is given a written demand for payment of them,

the Landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

I find the Landlord has not provided sufficient evidence to prove that a written demand letter was provided to the Tenants as required under section 46(6) of the Act. Therefore, 10 Day Notice will be limited to the unpaid rent only.

Issues 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?

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

Background and Evidence

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

The parties testified that this tenancy began on February 20, 2023, with a monthly rent of \$4,200.00, due on the 21st day of the month. The Tenants paid a security deposit of \$2,050.00 and a pet damage deposit of \$2,050.00.

The parties confirmed that the Tenants are owing the following amount of rent:

Month	Amount of Rent Owning \$
November rent	3,200.00
December rent	4,200.00
January rent	4,200.00
February rent	4,200.00
March rent	4,200.00
April rent	4,200.00
Total Amount Owning	24,200.00

The 10 Day Notice was provided to the Tenant M.N. in person on April 1, 2025. I deem the Tenants were served on April 1, 2025, the day Tenant M.N. was provided the 10 Day Notice in person and in accordance with section 90 of the Act. The Landlord provided a copy of the Proof of Service as evidence.

The 10 Day Notice was entered into evidence by both parties for unpaid rent in the amount of \$20,000.00 due on November 20, 2024. Signed and dated April 1, 2025, with an effective date of April 11, 2025.

Analysis

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

Section 46 of the Act states that upon receipt of a 10 Day Notice the Tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the Tenant does not pay the arrears or dispute the 10 Day Notice they are conclusively presumed to have accepted the end of the tenancy under section 46(5).

The Landlord had a valid reason to issue the Tenants a notice to end the tenancy for unpaid rent. The 10 Day Notice has been filled out accurately and given to the Tenants.

The Tenants had until April 6, 2025, to pay the outstanding rent or dispute the 10 Day Notice. As the Tenants did not dispute the notice on time and failed to pay the

outstanding amount, they are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended April 11,2025.

Therefore, I find that the Landlord is entitled to an Order of Possession based on a 10 Day Notice under sections 46 and 55 of the Act.

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

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.

The Landlord had a valid reason to issue the Tenants a notice to end the tenancy for unpaid rent. The 10 Day Notice has been filled out accurately and given to the Tenants.

The parties testified the current rent amount owing is \$24,200.00.

Therefore, I find the Landlord is entitled to a Monetary Order for unpaid rent under section 55 of the Act, in the amount of \$24,200.00.

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 at 1:00 p.m. on May 22, 2025, after service of this Order on the Tenants**. Should the Tenants 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 **\$20,200.00** under the following:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 55 of the Act	\$24,200.00
I order the Landlord to retain the Tenants' deposits in partial satisfaction of the Monetary Order	-\$4,100.00
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
Total Amount	\$20,200.00

The Landlord is provided with this Order and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims 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 Act.

Dated: May 15, 2025

Residential Tenancy Branch