



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Codes Tenant: **CNR, OLC**
 Landlord: **OPR, OPB, MNRL, FFL**

Introduction

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

1. 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; and,
2. An Order for the Landlord to comply with the Act, regulations, and tenancy agreement under section 62(3) of the Act.

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

1. An Order of Possession for a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities (10 Day Notice) under sections 46, 55 and 62 of the Act;
2. An Order of Possession for the end of a fixed term tenancy under sections 44(1)(b) and 55 of the Act;
3. A Monetary Order to recover money for unpaid rent under sections 26, 46 and 67 of the Act; and,
4. Recovery of the application filing fee under section 72 of the Act.

Tenant WH attended the hearing for the Tenant.

Landlord TG attended the hearing for the Landlord.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Tenant confirmed that they personally served the Landlord with their Proceeding Package on May 16, 2025. The Landlord confirmed receipt of the Proceeding Package. I find that the Landlord was served with the Proceeding Package on May 16, 2025, in accordance with section 89(1)(a) of the Act.

The Landlord testified that they served the Tenant with their Proceeding Package and evidence on May 29, 2025 by Canada Post registered mail. The Landlord referred me to their proof of service form #RTB-55 attesting to this service. The Tenant stated they received the notice card in the mail, but they did not know it was for this matter, and they have not gone to pick it up. Despite not picking up the registered mail package, I find that the Tenant was deemed served with the Proceeding Package and evidence on June 3, 2025 in accordance with sections 89(1)(c) and 90(a) of the Act.

Service of Evidence

The Tenant did not upload or serve any evidence for this matter.

Preliminary Matter

Monetary amount

Residential Tenancy Branch Rules of Procedure 7.12 allows for amendments to be made in circumstances where the amendment 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. If an amendment to an application is sought at a hearing, an Amendment to an application for dispute resolution need not be submitted or served.

On this basis, I allow the amendment as this was clearly rent that the Tenant would have known about and resulted since the Tenant submitted the application. I amend the Landlord's original application from \$600.00 to \$1,200.00 to reflect the unpaid rent that became owing by the time this hearing was convened.

Issues to be Decided

Tenant:

1. Is the Tenant entitled to cancellation of the Landlord's 10 Day Notice?
2. If the Tenant is not successful, is the Landlord entitled to an Order of Possession?
3. Is the Tenant entitled to an Order for the Landlord to comply with the Act, regulations, and tenancy agreement?

Landlord:

1. Is the Landlord entitled to an Order of Possession for a 10 Day Notice?
2. Is the Landlord entitled to an Order of Possession for the end of a fixed term tenancy?
3. Is the Landlord entitled to a Monetary Order to recover money for unpaid rent?
4. Is the Landlord entitled to recovery of the application filing fee?

Background and Evidence

I reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties agreed that the oral periodic tenancy began on January 1, 2025. The Tenant said they moved into the rental unit on January 16, 2025. Monthly rent is \$600.00 payable on the first day of each month. A security deposit of \$140.00 was collected at the start of the tenancy and is still held by the Landlord.

The Landlord served the 10 Day Notice by attaching it to the Tenant's door on May 5, 2025. The reason in the 10 Day Notice why the Landlord was ending the tenancy was because the Tenant owed \$600.00 in outstanding rent on May 5, 2025. The Landlord also included that the Tenant failed to pay the damage deposit in the amount of \$160.00. The effective date of the 10 Day Notice was May 10, 2025.

The Tenant applied to dispute the notice on May 13, 2025.

The Landlord testified that the Tenant has paid no rent since receiving the 10 Day Notice. The Landlord stated that the Tenant does not have permission from the Landlord to withhold rent, and the Tenant has not received an Order from an Arbitrator authorizing them to withhold rent. The Landlord is seeking an Order of Possession and a Monetary Order for unpaid rent in the amount of \$1,200.00.

The Tenant said they have always paid their rent by cash, but the Landlord has never issued them a receipt for their payments. The Tenant stated they tried to pay their rent by a cash payment on May 5, 2025, but the Landlord would not accept it.

The Landlord said the Tenant was drunk and screaming obscenities at them. The Landlord said he did not accept the Tenant's rent payment because the Tenant was late with his rent payment, his condition, and that they are causing problems on the residential property with other tenants.

The Tenant had no definitive plan of how they would be able to pay the Landlord their rent.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

Is the landlord entitled to a Monetary Order and an Order of Possession 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.

I find the Landlord's 10 Day Notice was deemed served on the Tenant on May 8, 2025 in accordance with sections 88(g) and 90(c) of the Act. I find the Landlord's 10 Day Notice complied with the form and content requirements of section 52 of the Act.

The Tenant has not paid the overdue rent, but not for a lack of trying. The Tenant normally pays their rent by cash, and the Landlord does not issue them a receipt as they should in accordance with section 26(2) of the Act. The Tenant tried to pay their rent on May 5, 2025, but the Landlord did not accept it. This is wrong on the Landlord's part as the Tenant had five days after receiving a 10 Day Notice to pay their outstanding rent in accordance with section 46(4) of the Act. I will report this action to my manager who may decide to refer this to the RTB's Compliance and Enforcement Unit who imposes fines and penalties on parties in residential tenancy matters.

The Tenant also did not have a definitive plan or coordination with the Ministry of Social Development and Poverty Reduction of when or how they could pay their outstanding rent.

Based on the testimonies of the parties, the Tenant is still in rental arrears in this tenancy, they do not have permission from the Landlord to withhold rent and the Tenant does not have an Arbitrator's Order to withhold rent. I find that the Landlord's notice is valid.

I find that the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice under section 46(5) of the Act. The Tenant's application to cancel the 10 Day Notice is dismissed.

As the tenancy has ended, I decline to make an Order for the Landlord to comply with the Act, and regulation.

I must consider if the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

I find the parties were not in a fixed term tenancy, therefore, I dismiss the Landlord's application for an Order of Possession for this reason.

I find the Landlord is entitled to an Order of Possession further to the 10 Day Notice under section 55(1) of the Act which will be effective on June 30, 2025 after service on the Tenant.

The Landlord is also entitled to a Monetary Order for non-payment of rent under section 55(1.1) of the Act. The total outstanding rent amount is \$1,200.00. RTB Rules of Procedure 7.12 allows me to amend the Landlord's original application amount, and I do so in this decision.

The Landlord's monetary order is calculated as follows:

Item	Amount
Unpaid rent May 2025	\$600.00
Unpaid rent June 2025	\$600.00
Less security deposit	-\$140.00
Less security deposit interest*	-\$0.57
Landlord's monetary award:	\$1,059.43

*The amount of interest in 2025 is 0.95%. Interest is calculated on the original security deposit amount, before any deductions are made, and it is not doubled. Interest was calculated using the Residential Tenancies Online Tools: Deposit Interest Calculator.

Although I granted the Landlord's application, I find the Landlord's conduct reprehensible and in breach of the Act. Awards for filing fees are discretionary and I decline to grant recovery of the application filing fee to the Landlord under section 72 of the Act.

For the benefit of the Tenant, the BC Rent Bank provides financial assistance to renters in British Columbia who are facing short-term financial crises. Their website (bcrentbank.ca/) provides additional information for those who need to apply for assistance.

Conclusion

The Tenant's application is dismissed in its entirety.

The Landlord's application for an Order of Possession because the parties were in a fixed term tenancy is dismissed.

I grant an Order of Possession to the Landlord effective on June 30, 2025 at 1:00 PM. The Landlord must serve this Order on the Tenant as soon as possible. Should the Tenant 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 \$1,059.43, and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court of British Columbia and enforced as an Order of that Court.

The Landlord's application for recovery of the application filing fee is dismissed.

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: June 06, 2025

Residential Tenancy Branch