DECISION

Introduction

This hearing was reconvened from hearings on July 4 and 11, 2025 regarding applications for dispute resolution under the *Residential Tenancy Act* (the "Act") made by KJ and RG, and by Plan A Real Estate Services Ltd. ("Plan A").

KJ and RG applied against Plan for:

- cancellation of a 10 day notice to end tenancy for unpaid rent or utilities dated June 4, 2025 (the "10 Day Notice") issued by Plan A under section 46 of the Act;
- an order requiring Plan A to comply with the Act, regulation or tenancy agreement under section 62(3) of the Act; and
- authorization to recover the filing fee for their application from Plan A under section 72 of the Act

Plan A applied against JL for:

- an order of possession of the rental unit based on the 10 Day Notice under section 55 of the Act;
- compensation of $2,850.00 for unpaid rent under section 67 of the Act; and
- authorization to recover the filing fee from JL under section 72 of the Act.

On July 11, 2025, I issued an interim decision joining the two applications. This decision should be read together with the interim decision.

Service of Evidence

The parties in attendance confirmed receipt of each other's additional evidence served since the first two hearings. I have considered the additional evidence for the purpose of this decision.

Issues to be Decided

Do KJ and RG have standing?

Should the 10 Day Notice be cancelled? If not, is Plan A entitled to an order of possession and compensation for unpaid rent?

Is Plan A entitled to recover its filing fee?

Background and Evidence

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

The rental unit is a two-bedroom apartment suite. Plan A is the owner of the building.

On April 1, 2025, Plan A and JL signed a tenancy agreement for a fixed term commencing on May 1, 2025 and ending on April 30, 2026. This agreement provides that the rent was $2,850.00 due on the first day of the month. Plan A received a security deposit of $1,425.00.

On April 1, 2025, JL, using an alias, signed a tenancy agreement with KJ and RG in respect of the rental unit for a fixed term commencing on May 1, 2025 and ending on August 31, 2025. According to this agreement, the rent was $3,400.00 per month, and the security deposit was $1,700.00.

KJ and RG moved into the rental unit on May 1, 2025. They have been residing in the unit since.

On June 4, 2025, Plan A issued the 10 Day Notice to JL with an effective date of June 14, 2025. The reason for ending the tenancy is that JL failed to pay rent of $2,850.00 due on June 1, 2025.

KJ and RG made their application on June 6, 2025. JL has since disappeared and has not participated in these proceedings.

KJ and RG's Position

KJ and RG are students. They were looking to relocate to the dispute city from May 1, 2025 to August 31, 2025 for work. In February 2025, KJ and RG connected with JL in their search for housing. JL was using a fake name.

KJ, RG, and JL initially signed a tenancy agreement for a different unit. On February 12, 2025, KJ e-transferred $1,700.00 to JL as payment of the security deposit. On February 19, 2025, KJ e-transferred $3,400.00 to JL for payment of May 2025 rent. The parties later agreed to void this agreement.

In March 2025, JL suggested the rental unit to KJ and RG, and they agreed to transfer the funds paid towards the new tenancy agreement. Thereafter, JL told KJ and RG that if they paid last month's rent upfront (for August 2025), the monthly rent could be reduced from $3,400.00 to $3,200.00. KJ and RG agreed, and KJ e-transferred $3,000.00 to JL on April 1, 2025. KJ and RG also paid JL $480.00 for two parking stalls for the duration of their stay.

KJ and RG would later find out that on April 3, 2025, JL's security deposit was e-transferred to Plan A by a third party, LB. LB was defrauded by JL on the promise that JL would repay him within 24 hours.

On May 1, 2025, KJ arrived at the rental unit for moving in. She was accompanied by her father RJ. JL was present, as was SS, Plan A's employee. RG did not arrive until several hours later.

KJ testified that on May 1, 2025, she e-transferred $2,850.00 for June 2025 rent to Plan A, then walked upstairs to confirm with SS that the e-transfer was received. The e-transfer included a message that the payment was for June rent. KJ also e-transferred Plan A a furniture deposit. KJ explained that JL had told her to e-transfer Plan A $2,850.00 for June, KJ and RG would pay that amount instead of $3,200.00. KJ explained it was an attractive deal for her and RG as students. According to KJ, she made it clear that the e-transfer was for June, confirmed with SS that May was already paid, and SS did not object to any of it.

RJ testified that JL had introduced him and KJ to SS, indicating that they were one of the new tenants and her father. RJ testified that JL introduced himself as a rental agent for Plan A, whose job was to make sure that all the apartments were full. RJ testified that there was no objection from SS. SS gave KJ and RJ a tour of the premises and answered their questions.

After KJ and RG moved in, Plan A arranged for maintenance to address certain deficiencies. JL was available for the first few weeks to communicate cleaning concerns that KJ and RG raised.

The next that KJ and RG heard from Plan A was when they were served with the 10 Day Notice on June 4, 2025. KJ and RG googled JL's real name and learned that JL is a known scammer and fraudster.

KJ and RG submit that JL is an agent of Plan A, hired to rent out the rental unit to short-term tenants. They submit that the tenancy agreement signed between JL and Plan A, which has a very specific subtenancy clause, is a phony agreement and an attempt to contract out of the Act. KJ and RG argue that Plan A has engaged in similar practices in the past. They request that an adverse inference be drawn due to Plan A not providing their full written communication records related to a subtenancy.

KJ and RG submit that JL did not provide consideration for the agreement, and that the security deposit received by Plan A was a fraudulent payment. They point out that the first month's rent was due 5 days before the commencement of the tenancy, which JL did not pay, so there was no binding agreement when KJ and RG moved in. KJ and RG further argue that there was never any intention for JL to occupy the rental unit, and that KJ and RG are the proper tenants of Plan A.

KJ and RG have paid $2,850.00 to Plan A for the month of July. They submit that June and August rent have also been paid.

KJ and RG submit that the test for civil fraud and civil conspiracy have been met, or in the alternative, there has been negligent misrepresentation by Plan A.

Additionally, KJ and RG seek an order for Plan A to comply with the Act. KJ and RG submit that their rights to quiet enjoyment have been violated.

Plan A's Position

Plan A rejects any notion that it has engaged in civil fraud, conspiracy, negligent misrepresentation. Plan A denies that it has an agency relationship with JL.

As far as Plan A is concerned, JL is a tenant and it was a normal tenancy. Plan A did not know JL before and did not have any prior dealings with JL. JL does not rent any other unit from Plan A.

JL had responded to the ad that CX posted for the rental unit. CX is Plan A's leasing agent. JL told CX that he wanted to rent the unit to sublease for his friends and family. JL provided IDs and a bank statement showing substantial investment and personal savings. JL explained that he did not have employment records because he is a business owner. CX asked Plan A's property managers, AM and KH, about the requirements for JL to sublet. CX testified that JL came across as a strong candidate who was good at communicating and responding to questions. CX acknowledged that she did not do a google search of JL.

SS is Plan A's administrator. SS testified that on May 1, 2025, JL showed up first and they started doing the move-in inspection. SS had JL down as the tenant. JL then told SS that his friends were moving in instead of him. SS was told that JL's friends were coming to visit and will be staying for a few days. JL went down to receive furniture and told SS to continue the inspection. When it was time to hand over the keys, Plan A had not yet received payment in full, so SS had to wait almost 2 hours to give them the keys. JL told SS that he was going to get cash, then he called two people, KJ and her father, into the unit to transfer the funds to SS. SS was told that someone else will transfer another part of the funds. Once SS received the payments, SS gave the keys to KJ and left.

SS confirmed that Plan A had not received May rent from JL at the time of the move-in. JL showed SS a screenshot that someone else sent the rent for May. SS called Plan A's office to confirm that this amount was received from KJ. At the time, neither KJ nor JL told SS that they were paying the rent for June and not May. SS spoke with JL about the rent only, because JL was the tenant. KJ and her father did not mention that they had already paid rent for May and August to JL. SS did not say during the move-in inspection that JL works for Plan A.

Plan A accepted KJ's e-transfer through auto deposit. There was no opportunity to review the e-transfer before accepting. Plan A receives over 1,000 e-transfers per month. The e-transfer would be reviewed only if there was an issue with receiving payment.

KH, Plan A's property manager, testified that after SS finished the move-in, she informed KH about JL's friends staying for a few days, which raised some questions for KH. KH asked JL how long they would be staying, but JL did not give an answer. KH was unable to reach JL, so she sent him an email on May 9, 2025. KH sent the email to seek information about the people living in the unit. KH followed up with JL but was unable to reach him.

AM, Plan A's managing broker, testified that he found out about KJ and RG living in the rental unit when June rent was not paid. AM testified that Plan A tried to reach an amicable resolution with KJ and RG by inviting them to their office.

Plan A submits it is unfortunate that KJ and RG were dealing with JL, a predator, and that they chose to give JL thousands of dollars upfront. Plan A submits that any claim KJ and RG may have is against JL.

Since KJ and RG are unwilling to pay for June and August on JL's behalf, Plan A seeks an order of possession of the rental unit and compensation for unpaid 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.

Do KJ and RG have standing?

For the reasons given below, I find JL was not an agent of Plan A. I find JL was Plan A's tenant, and KJ and RG were subtenants. Therefore, I find KJ and RG do not have standing to make their application against Plan A, and their application should be dismissed without leave to re-apply.

Subletting Under the Act

Section 1 of the Act defines a "sublease agreement" to mean a tenancy agreement

> (a) under which
>
> > (i) the tenant of a rental unit transfers the tenant's rights under the tenancy agreement to a subtenant for a period shorter than the term of the tenant's tenancy agreement, and
> > (ii) the subtenant agrees to vacate the rental unit at the end of the term of the sublease agreement, and
>
> (b) that specifies the date on which the tenancy under the sublease agreement ends.

As explained in Residential Tenancy Policy Guideline 19, when a rental unit is sublet, the original tenancy agreement remains in place between the original tenant and the landlord, and the original tenant and the subtenant enter into a new agreement, a sublease agreement. Under a sublease agreement, the original tenant transfers their rights under the tenancy agreement to a subtenant. This must be for a period shorter than the term of the original tenant's tenancy agreement and the subtenant must agree to vacate the rental unit on a specific date at the end of the sublease agreement term, allowing the original tenant to move back into the rental unit.

Policy Guideline 19 further states that generally speaking, the subtenant does not acquire the full rights provided to tenants under the Act. For example, if the landlord ends the tenancy with the original tenant, the tenancy ends for the subtenant as well. The subtenant would not be able to dispute the landlord ending the tenancy with the original tenant; it would be up to the original tenant to dispute the notice.

Policy Guideline 19 emphasizes that there is no contractual relationship between the original landlord and the subtenant.

Relationship Between KJ, RG, and JL

I find KJ and RG were not under the impression that JL worked for Plan A or was an agent of Plan A. I find KJ and RG understood from JL, before they signed their agreement, that JL would be the tenant and that they would be short-term subtenants. I find KJ and RG state in their application that they "entered a sublease agreement" with JL, and argued that "subtenants have the same rights as tenants". I find KJ in her written statement of facts refers to communications about a subtenancy between KJ, RG, and JL.

I find the tenancy agreement signed between KJ, RG, and JL transfers JL's rights to the rental unit to KJ and RG for a period shorter than the term of JL's own tenancy agreement (discussed further below), and requires KJ and RG to vacate at the end of the term. Therefore, I find the agreement between KJ, RG, and JL to be a sublease agreement.

Relationship Between JL and Plan A

I find JL entered into a valid, binding, and enforceable tenancy agreement with Plan A in respect of the rental unit.

I find that even if JL had defrauded LB into paying the security deposit to Plan A on his behalf, this does not void JL and Plan A's tenancy agreement or mean that the agreement was invalid due to a lack of consideration. I note that not all tenancy agreements will require the payment of a security deposit.

Additionally, I do not find JL and Plan A's tenancy agreement was a sham, or an attempt to avoid or contract out of the Act and the regulations.

I do not find that JL was acting as an agent of Plan A. I find JL was not an employee or contractor of Plan A. I find there is insufficient evidence of any prior or other dealings between JL and Plan A. I find the social media post submitted by KJ and RG about JL running a coordinated scam to be hearsay, and I give no weight to it.

I find JL contacted Plan A as a potential tenant in response to an ad for the rental unit. Based on CX's testimony, I find there were discussions about JL's desire to sublet the unit, which resulted in the term inserted under clause 3(2) of JL's tenancy agreement. Given that Plan A has called as its witnesses the various employees who were in communication with JL, I do not find that an adverse inference should be drawn due to Plan A not submitting all of their written communication records into evidence.

Furthermore, I find that as a tenant, JL did not seek Plan A's permission to sublet to KJ and RG. While I find the tenancy agreement specifies that Plan A will not unreasonably deny JL's request to sublet the apartment, provided that the sublease term is at least three months, I do not find JL to have the right to sublet without first seeking permission. I find that clause 10(1) of the agreement still requires that JL may sublet the rental unit with the written consent of Plan A.

Relationship Between KJ, RG, and Plan A

Based on the evidence presented, I find KJ and RG are subtenants who do not have any contractual relationship with Plan A.

I find KJ's e-transfer of $2,850.00 to Plan A on May 1, 2025 did not establish any oral contract with Plan A.

I find that a valid and enforceable tenancy agreement was already in place between JL and Plan A in respect of the rental unit.

I find there was no mutual agreement or meeting of the minds between all parties, to amend the existing tenancy agreement to add KJ and RG as tenants, or to replace JL. I find KJ simply made payments to Plan A on JL's behalf, for sums that JL was contractually obligated to pay Plan A under his own tenancy agreement.

I find that more likely than not, JL did not tell KJ about the discount for paying June rent early in SS's presence, as this would have likely hindered JL's scheme. I find that more likely than not, JL was telling different things to KJ and SS separately. I accept SS's testimony that JL showed her the screenshot as confirmation of payment with the understanding that it was for May rent. I accept that whether due to insufficient communication from KJ or a misunderstanding of anything said by KJ, SS did not understand that KJ meant to e-transfer the funds to Plan A as payment of rent for June. I find that the memo on KJ's e-transfer was missed and the payment was accepted by Plan A as JL's May rent.

For these reasons, I do not find KJ and RG to have standing to dispute the 10 Day Notice, or to make claims against Plan A under the Act and the regulations.

Civil Fraud, Civil Conspiracy, and Negligent Misrepresentation

I find the claims of civil fraud, civil conspiracy, and negligent misrepresentation are all claims in tort that require proof of damage or loss. However, I note that there is no claim for compensation for damage or loss included in KJ and RG's application.

Furthermore, section 2(1) of the Act states that subject to section 4, the Act applies to tenancy agreements, rental units, and other residential property. If a landlord or tenant does not comply with the Act, the regulations, or their tenancy agreement, the non-complying party must compensate the other party for damage or loss that results (see sections 7 and 67 of the Act).

Since I have found that there is no tenancy agreement between Plan A as landlord and KJ and RG as tenants in respect of the rental unit, I find the claims in tort raised by KJ and RG are likely beyond the scope of the director's jurisdiction under the Act.

I find that KJ, RG, and Plan A were all, in different ways, victims of JL's fraud. As such, I will be referring JL to the Compliance and Enforcement Unit (CEU) for further investigation.

Should the 10 Day Notice be cancelled? If not, is Plan A entitled to an order of possession and compensation for unpaid rent?

Section 26(1) of the Act states that a tenant must pay rent when it is due, whether or not the landlord complies with the Act, the regulations, or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

If a tenant does not pay rent when due, section 46 of the Act permits a landlord to take steps to end a tenancy by issuing a notice to end tenancy for unpaid rent.

In this case, I have reviewed the 10 Day Notice and I find that it complies with the requirements of section 52 of the Act in form and content.

I find Plan A emailed a copy of the 10 Day Notice to JL's email address for service on June 4, 2025, in accordance with section 88(j) of the Act and section 43(1) of the regulations. I find that pursuant to section 44 of the regulations, JL was deemed to have received the 10 Day Notice on June 7, 2025, the third day after emailing.

I find JL did not pay the overdue rent within 5 days of receiving the notice, that is, by June 12, 2025, to cancel the 10 Day Notice under section 46(4)(a) of the Act. I note that I find the subsequent payment made by KJ and RG was for use and occupancy in July only, and was in any event paid outside of the 5-day period.

I find JL also did not make an application to dispute the 10 Day Notice by June 12, 2025, in accordance with section 46(4)(b) of the Act. I have found above that KJ and RG are not Plan A's tenants and do not have standing to dispute the 10 Day Notice.

Section 46(5) of the Act states that if a tenant who has received a notice under section 46 does not pay the rent or make an application for dispute resolution in accordance with section 46(4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

Given the above, I find JL is conclusively presumed to have accepted that the tenancy ended on June 17, 2025, the corrected effective date of the 10 Day Notice. Accordingly, I find the 10 Day Notice should be upheld.

Under section 55(2)(b) of the Act, a landlord may apply for an order of possession of the rental unit if the tenant has not disputed the notice and the time for making that application has expired.

Section 55(4) of the Act states that in the circumstances described in subsection (2)(b), the director may, without further dispute resolution process under Part 5 *[Resolving Disputes]*, (a) grant an order of possession, and (b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

I find Plan A is entitled to an order of possession of the rental unit under section 55(4)(a) of the Act. I note the corrected effective date of the 10 Day Notice has already passed. In these circumstances, effective dates for orders of possession are generally set for 7 days after the order is received (see Residential Tenancy Policy Guideline 54). Therefore, I make the order as set out in the conclusion section below.

Additionally, I find Plan A is entitled to compensation of $2,850.00 from JL for unpaid June 2025 rent under section 55(4)(b) of the Act. I note that I have not addressed any compensation for overholding in this decision. Plan A is at liberty to make a separate application against JL to seek compensation for overholding, including for additional use and occupancy that may have occurred in August 2025.

Is Plan A entitled to recover its filing fee?

Plan A has been successful in its application against JL. I find Plan A is entitled to recover its filing fee from JL under section 72(1) of the Act.

Conclusion

KJ and RG's application is dismissed in its entirety without leave to re-apply.

Pursuant to section 55(4)(a) of the Act, I grant an Order of Possession to Plan A effective **seven (7) days** after service upon JL. JL must be served with this Order as soon as possible. Should JL or any occupant on the premises fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

Pursuant to sections 55(4)(b) and 72(1) of the Act, I grant the Landlord a Monetary Order of **$2,950.00** against JL, calculated as follows:

Item	Amount
Unpaid June 2025 Rent	$2,850.00
Filing Fee	$100.00
Total Monetary Order for Plan A	**$2,950.00**

This Order may be served on JL, filed in the Provincial Court of British Columbia, and enforced as an order of that 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: August 6, 2025

Residential Tenancy Branch