

DECISION

Introduction

This hearing was scheduled to deal with cross applications.

The Tenant made an 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 suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- authorization to change the locks to the rental unit under section 70(2) of the Act
- an order requiring the Landlord to return the Tenant's personal property under section 65 of the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

The Landlord made an Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an Order of Possession for unpaid rent under section 55 of the Act
- a Monetary Order for unpaid rent under section 67 of the Act
- recovery of the filing fee paid for this application under section 72 of the Act

The Tenant did not attend the hearing.

The Landlords were represented by an agent.

Service of proceeding packages

The Landlord's agent stated the Tenant did not serve his Application for Dispute Resolution upon the Landlord(s). The Tenant did not provide any proof of service prior to the hearing and did not appear at the hearing to prove service. Therefore, I am unsatisfied the Tenant served his Application for Dispute Resolution, as required, and I dismiss the Tenant's application. I dismiss the Tenant's application without leave to reapply because the tenancy is ended for unpaid rent for reasons set out later in this decision.

The Landlord's agent submitted a Canada Post receipt to show the Landlord's proceeding package was sent to the Tenant by Xpresspost. A search of the Xpresspost tracking number showed the Xpresspost was delivered on July 28, 2025 however there was no signature obtained. Without a signature requirement, Xpresspost is not considered registered mail. Therefore, I did not consider this to be sufficient service.

The Landlord's agent submitted that the proceeding package and evidence was also sent to the Tenant by email. The Tenant had authorized service by email in the tenancy agreement. The Landlord provided a copy of the outgoing email sent to the Tenant on July 24, 2025 and I am satisfied this service meets the requirements of section 89(1) of the Act and section 43(2) of the Residential Tenancy Regulations. Section 44 of the Regulations provides that email is deemed to be received three days after sending, unless there is evidence that it was received earlier. I do not have evidence to demonstrate the email was received earlier and I deem the Tenant to have received the email containing the Landlord's proceeding package on July 27, 2025, three days after it was sent. Therefore, I find the Tenant was duly served with the Landlord's proceeding package and I proceed to consider the Landlord's application.

Amendment of Landlord's Application for Dispute Resolution

The Tenant and the Landlord's agent spelled the landlord's name differently. I have amended the applications to spell the Landlord's name as seen on the tenancy agreement and the 10 Day Notice.

The Landlord's agent requested the monetary claim be amended to include loss of rent for the month of August 2025 since the Tenant has continued to occupy the rental unit without paying any rent while awaiting this proceeding. Rule 7.12 of the Rules of Procedure provides:

7.12 Amending an application at the hearing

An application can be amended at the hearing only 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, or
- where the applicant requests an amendment to their application and the respondent consents to the amendment.

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.

I find the request to amend the monetary claim to include loss of rent for the month of August 2025, to reflect the Tenant's continued occupation of the rental unit while awaiting this proceeding, without paying rent, is reasonably foreseeable and I amend the Landlord's monetary claim accordingly.

Issues to be Determined

Is the Landlord entitled to an Order of Possession for unpaid rent?

Is the Landlord entitled to a Monetary Order for unpaid and/or loss of rent?

Is the Landlord entitled to recovery the filing fee paid for their application from the Tenant?

Background and Evidence

The tenancy commenced on June 7, 2025 pursuant to a written tenancy agreement signed by the Tenant and the Landlord's agent. The Tenant was required to pay pro-rated rent of \$1,000.00 for the month of June 2025 and \$4,500.00 for every month thereafter, on the first day of every month. The Tenant was also required to pay a security deposit of \$2,250.00 but payment was never received.

The Tenant did not pay the rent that was due for June 2025 or July 2025 and on July 4, 2025 the Landlord prepared the 10 Day Notice. The 10 Day Notice was attached to the rental unit door and emailed to the Tenant on July 6, 2024.

The 10 Day Notice has an effective date of July 14, 2025 and indicates rent of \$7,995.00 was outstanding as of July 1, 2025.

The Landlord agent explained the sum of \$7,995.00 was calculated as follows:

- Unpaid rent for June 2025: \$1,000.00
- Unpaid rent for July 2025: \$4,500.00
- Unpaid security deposit: \$2,250.00
- Bylaw fine: \$200.00
- NSF charge: \$45.00

After serving the 10 Day Notice the Tenant did not pay any monies toward the outstanding rent. The Tenant did not vacate the rental unit and did not pay any monies for his continued occupation of the rental unit in August 2025. The total of unpaid and/or loss of rent suffered by the Landlord to date is \$10,000.00.

The Landlord seeks an Order of Possession as soon as possible.

As evidence for this proceeding, I was provided a copy of the tenancy agreement; the 10 Day Notice; the email used to send the email on July 6, 2025; and, a signed Proof of Service form for the 10 Day Notice.

Analysis

Is the Landlord entitled to an Order of Possession for unpaid rent?

Under section 26 of the Act, a Tenant is required to pay rent when due in accordance with their tenancy agreement, even if the Landlord has violated the Act, regulations or tenancy agreement, unless the Tenant has a legal right to withhold rent.

Upon consideration of the unopposed evidence before me, I find the Tenant was required to pay rent of \$1,000.00 for June 2025 and \$4,500.00 for July 2025 on or before July 1, 2025 and the Tenant failed to do so. I was not provided any evidence to suggest the Tenant had a legal right under the Act to withhold rent that was payable to the Landlord under the tenancy agreement.

Where a Tenant does not pay rent the Landlord is at liberty to serve the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. When a Tenant receives a 10 Day Notice the Tenant has five days to pay the outstanding rent to nullify the 10 Day Notice or the Tenant has five days to dispute the 10 Day Notice by filing an Application for Dispute Resolution.

I find the Tenant was duly served with the 10 Day Notice by way of an email sent to him on July 6, 2025 and under section 44 of the Regulations the Tenant is deemed to have received the email three days after it was sent, on July 9, 2025. Accordingly, I find the Tenant had until July 14, 2025 to either pay the outstanding rent or file an Application for Dispute Resolution to dispute the 10 Day Notice.

Although the amount indicated on the 10 Day was incorrect, and should have read \$5,500.00 as outstanding for rent, I accept the unopposed evidence before me that the Tenant did not pay anything toward the rent owed for June 2025 or July 2025 after the 10 Day Notice was served and he knew or ought to have known the amount of rent he owed based on his tenancy agreement.

The Tenant filed to dispute the 10 Day Notice; however, I have dismissed the Tenant's application seeking cancellation of the 10 Day Notice due to his failure to serve his Application for Dispute Resolution to the Landlord.

Given all of the above, I find this tenancy is at an end due to unpaid rent and I find the Landlord entitled to regain possession of the rental unit. Under section 55(2) of the Act, I provide the Landlord with an Order of Possession effective seven (7) days after service upon the Tenant.

Is the Landlord entitled to a Monetary Order for unpaid and/or loss of rent against the Tenant?

Based upon the unopposed evidence before me, I find the Landlord entitled to recover from the Tenant the unpaid rent that was due for June 2025 and July 2025, in the sum of \$5,500.00. I further find the Landlord entitled to recover loss of rent incurred for the month of August 2025 since the Tenant continued to hold possession of the rental unit, causing the Landlord to suffer further loss of rent.

The landlord’s request to recover the security deposit, bylaw fine and NSF charge are denied under this application since they are not amounts owing for rent. The Landlord is at liberty to pursue damages or losses other than the rent I have addressed in this decision under another Application for Dispute Resolution.

Is the Landlord entitled to recover the filing fee from the Tenant?

The Landlord’s application was successful, and I award the Landlord recovery of the \$100.00 filing fee paid for this application from the Tenant.

Conclusion

The Tenant's application for cancellation of the 10 Day Notice and other remedies is dismissed, without leave to reapply.

I grant an Order of Possession to the Landlord effective seven (7) days after service upon the Tenant. Should the Tenant 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.

The Landlord is provided a Monetary Order in the sum of \$10,100.00 under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for unpaid and/or loss of rent for June 2025, July 2025 and August 2025 under section 67 of the Act	\$10,000.00
a Monetary Order for recovery of the filing fee under section 72 of the Act	\$100.00
Total Amount	\$10,100.00

The Landlord is provided with this Monetary Order in the above terms to serve and enforce upon the Tenant. Should the Tenant 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: August 15, 2025

Residential Tenancy Branch