

## **DECISION**

### **Introduction**

This hearing 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
- 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

Tenant D.J.L. and Tenant OTH C.L. attended the hearing for the Tenant.  
Landlord N.K. and Landlord OTH P.V. attended the hearing for the Landlord.

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

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

### **Service of Evidence**

Based on the submissions before me, I find that the Tenant's evidence was not served to the Landlord in accordance with section 88 of the Act. The Landlord affirms receiving the Tenant's evidence on August 22, 2025, three days before this hearing. The Tenant confirms emailing their evidence to the Landlord on August 22, 2025. Both the Landlord and his counsel affirm counsel was unable to review the evidence prior to this hearing.

Rule of Procedure 3.14 states the applicant's evidence must be received by the respondent and the Residential Tenancy Branch not less than fourteen days before the hearing or conference. For this reason, I exclude the Tenant's 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.

### **Preliminary Matters**

The Tenant argues that the Act does not apply to this situation in question because he is not a tenant. He affirms he is a contractor invited to the property to perform

construction work, specifically to build an outbuilding. He affirms the arrangement is a business deal between his company and the landlord.

Both parties affirm that the Tenant moved into the rental unit in early to mid-July 2025. Both parties agree there is no written tenancy agreement regarding the rental unit, but that there was a verbal understanding that included rent of \$1,400.00 per month. Both parties further agree that there was a mutual understanding, but no formal signed construction contract, that the Tenant would perform construction work, specifically concrete work, at the residential property. The Landlord affirms the discussed work was part of an agreement separate from the tenancy agreement, but that he had agreed to, instead of paying the Tenant directly for work done, to deduct its value directly from the monthly rent. However, the Tenant affirms that the work was to be done was the agreed upon rent, and that the agreed \$1400.00 monthly rent payments were not to be begin until January 2026.

Rent, under section 1 of the Act, is defined as money paid or agreed to be paid, or value or a right given or agreed to be given, by or on behalf of a tenant to a landlord in return for the right to possess a rental unit, for the use of common areas and for services or facilities. The same section defines a tenancy agreement as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit.

Despite the Tenant's characterization of the arrangement as a business contract, and not a tenancy under the Act, I find the substance of the agreement, residential occupancy in exchange for value given, whether that be monies paid, or work done in lieu of monies paid, to meet the definition of a tenancy agreement, one that falls within the scope of the Act.

## **Issues to be Decided**

**Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?**

**Is the landlord entitled to a Monetary Order for unpaid rent?**

## **Facts and Analysis**

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

The Landlord provided copies of two different 10 Day Notices.

The first 10 Day Notice is signed July 21, 2025, with a move out date of August 1, 2025. It requests \$1400.00 of unpaid rent that was due on July 1, 2025, as well as the payment of the outstanding \$700.00 security deposit. Despite the 10 Day Notice

requesting payment of the security deposit in addition to unpaid rent, I find this to not be a fatal flaw and deem under section 62 and 68 of the Act that the 10 Day Notice is sufficient for the purposes of section 52 of the Act. The Landlord affirms the requested unpaid rent is for July 2025.

The Landlord affirms posting the above 10 Day Notice on the Tenant's door on July 22, 2025, but the Tenant affirms receiving it on July 27, 2025. I deem it was served July 27, 2025.

The second 10 Day Notice is signed August 2, 2025, with a move out date of August 13, 2025. It requests \$2800.00 of unpaid rent that was due on August 1, 2025, as well as the payment of the outstanding \$700.00 security deposit. Despite the 10 Day Notice requesting payment of the security deposit in addition to unpaid rent, I find this to not be a fatal flaw and deem under section 62 and 68 of the Act that the 10 Day Notice is sufficient for the purposes of section 52 of the Act. The Landlord affirms the requested unpaid rent is for July and August of 2025.

Both parties agree that the Tenant received the second 10 Day Notice on August 2, 2025.

**Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?**

The Tenant affirms that the tenancy was a work-for-rent agreement, where the construction work he was to perform, valued at approximately \$8000, would serve as payment for rent and no money would be exchanged until the new year. He maintains that the work itself constituted the rent. The Landlord, however, affirms that the construction work was a separate arrangement from the tenancy, and that rent was still to be paid as rent, any work performed by the Tenant would be compensated separately, potentially by offsetting the rent amount with its value, but not replacing rent entirely.

Both parties agree that no written agreement was created regarding the construction. However, both parties agree that after the Tenant moved into the rental unit, there was a disagreement about how much the Tenant would be paid for the construction work that was to be done. The Landlord affirms he cancelled the construction work after receiving text messages, a copy of which was provided, from the Tenant stating he no longer wished to proceed due to the lower compensation being offered. Both parties agree that no actual construction has begun.

I find that the tenancy agreement between the parties was a standard residential tenancy, under which rent in the amount of \$1400.00 was to be paid on the first day of each month. While there were discussions regarding the Tenant performing construction work on the property, I find that this was a separate and secondary arrangement, not forming part of the tenancy agreement itself. Any work performed by the Tenant was to be compensated independently, and while the parties may have

contemplated offsetting rent with the value of the work, this did not constitute a replacement of rent obligations. Accordingly, the Tenant remains responsible for paying rent as agreed.

Both parties agree that the Tenant has not paid the rent requested in the 10 Day Notices, and that rent for July and August of 2025 remains unpaid.

For the above reasons, the Tenant's application 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 is dismissed, without leave to reapply.

Section 55(1) of the Act states that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must grant the landlord an order of possession if the notice complies with section 52 of the Act. Therefore, I find that the Landlord is entitled to an Order of Possession

### **Is the landlord entitled to a Monetary Order for unpaid rent?**

Section 55(1.1) of the Act states that if an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [landlord's notice: non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

Therefore, I find that the Landlord is entitled to a Monetary Order for the unpaid rent of July and August of 2025, an amount of \$2800.00.

### **Conclusion**

I grant an Order of Possession to the Landlord **seven (7) days after service of this Order on the Tenant(s)**. Should the Tenant(s) 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 **\$2800.00** under the following terms:

<b>Monetary Issue</b>	<b>Granted Amount</b>
a Monetary Order for unpaid rent under sections 55 and 72 of the Act	\$2800.00
<b>Total Amount</b>	<b>\$2800.00</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 in the Small Claims Division of the Provincial Court 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 25, 2025

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Residential Tenancy Branch