



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

### **Introduction**

This hearing was convened in response to cross applications.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a One Month Notice to End Tenancy, dated July 16, 2025, and for more time to cancel that Notice. This file ends with #813.

The Tenant filed another Application for Dispute Resolution, in which the Tenant applied to cancel a One Month Notice to End Tenancy, dated July 29, 2025, and for more time to cancel that Notice. This file ends with #870.

The Tenant filed another Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy, dated August 06, 2025. This file ends with #908.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, a Monetary Order for unpaid rent, to retain the security deposit, and to recover the fee for filing an Application for Dispute Resolution. This file ends with #219.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. The participants affirmed they would not record any portion of these proceedings.

**Preliminary Matter #1**

With the consent of both parties, the Tenant's Applications for Dispute Resolution were amended to reflect the correct spelling of the company name of the Landlord, as that name was provided at the hearing by CP.

**Preliminary Matter #2**

Pursuant to 4.2 of the Residential Tenancy Branch Rules of Procedure, I amend the Landlord's Application for Dispute Resolution to include a claim for all unpaid rent currently due, including rent due from September 2025.

I find that it was reasonable for the Tenant to understand that the Landlord is seeking to recover all of the rent that is currently due, including unpaid rent that has accrued since the Application for Dispute Resolution was filed.

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

EJ stated that the Tenant's Application for Dispute Resolution and Proceeding Package for the file ending with #813 was sent to the Landlord, by email, although EJ cannot recall the date of service. CP acknowledged receiving these documents by email, although CP cannot recall the date of service. As the Landlord acknowledged receiving the Application for Dispute Resolution, I find that it has been sufficiently served, pursuant to section 71(2) of the Act.

EJ stated that the Tenant's Application for Dispute Resolution and Proceeding Package for the file ending with #870 was sent to the Landlord, by email, although EJ cannot recall the date of service. CP acknowledged receiving these documents by email, although CP cannot recall the date of service. As the Landlord acknowledged receiving the Application for Dispute Resolution, I find that it has been sufficiently served, pursuant to section 71(2) of the Act.

EJ stated that the Tenant's Application for Dispute Resolution and Proceeding Package for the file ending with #908 was sent to the Landlord, by email, although EJ cannot recall the date of service. CP acknowledged receiving these documents by email, although CP cannot recall the date of service. As the Landlord acknowledged receiving the Application for Dispute Resolution, I find that it has been sufficiently served, pursuant to section 71(2) of the Act.

BL stated that the Landlord's Application for Dispute Resolution and Proceeding Package for the file ending with #219 was sent to the Tenant, by registered mail, sometime between August 15, 2025 and August 18, 2025. EJ acknowledged receiving these documents by mail, although EJ cannot recall when they were received. I therefore find these documents were served in accordance with section 89 of the Act.

### **Service of Evidence**

On August 07, 2025, August 10, 2025, and August 13, 2025, the Tenant submitted evidence to the Residential Tenancy Branch. EJ stated that this evidence was served to the Landlord, with the Applications for Dispute Resolution. CP acknowledged receipt of this evidence, and it was accepted as evidence for these proceedings.

On August 11, 2025 and August 15, 2025, the Landlord submitted evidence to the Residential Tenancy Branch. BL stated that this evidence was served to the Tenant with the Landlord's Application for Dispute Resolution. EJ acknowledged receipt of this evidence, and it was accepted as evidence for these proceedings.

### **Issue(s) to be Decided**

Is the Landlord entitled to an Order of Possession on the basis of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated August 06, 2025?

Should the Tenant be granted more time to apply to cancel the One Month Notice to End Tenancy, dated July 16, 2025, be set aside and, if so, should that Notice be set aside?

Should the Tenant be granted more time to apply to cancel the One Month Notice to End Tenancy, dated July 29, 2025, be set aside and, if so, should that Notice be set aside?

Should the Ten Day Notice to End Tenancy for Unpaid Rent, dated August 06, 2025, be set aside?

Is the Landlord entitled to a monetary Order for unpaid rent or unpaid utilities and/or for the fee paid to file the Landlord's Application for Dispute Resolution?

Is the Landlord entitled to retain all of part of the security deposit?

### **Background and Evidence**

The Landlord and the Tenant agree that:

- this tenancy began in 2023
- rent was due by the first day of each month
- the Tenant paid a security deposit of \$900.00 on August 30, 2023
- the Tenant did not pay rent when it was due on August 01, 2025
- rent has not been paid for August or September of 2025
- there is also an overdue NSF charge from prior to August 01, 2025, in the amount of \$3.00
- the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated August 06, 2025, declared the rental unit must be vacated by August 22, 2025 because rent of \$1,913.00 has not been paid

- the Tenant is still occupying the rental unit.

BL stated that rent in August of 2025, was \$1,913.00. BL stated that on September 01, 2025, the rent increased to \$1,968.30. The Tenant stated rent was “nineteen-something”.

BL stated that a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated August 06, 2025, was posted on the Tenant’s door on August 06, 2025. EJ stated that they found this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on their door on August 06, 2025.

When asked if the Tenant had any legal right to withhold rent, EJ stated that someone at the Residential Tenancy Branch told him he was not required to pay rent. When asked if he had authorization for a Residential Tenancy Branch Arbitrator to withhold rent, EJ stated that he did not. When asked if the Tenant had a legal order requiring the Landlord to pay money to the Tenant, EJ stated that he did not.

The Landlord is also seeking a NSF fee from August of 2025, in the amount of \$45.00. The Landlord submitted an Addendum to the tenancy agreement, which declares the Tenant must pay a fee of \$45.00 if rent is paid late or if a rent cheque is returned due to insufficient funds.

## **Analysis**

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,913.00 to the Landlord by August 01, 2025 and rent of \$1,968.90 by September 01, 2025.

Based on the undisputed evidence, I find that rent for August and September of 2025 has not been paid.

Section 26(1) of the Act stipulates that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent. In the absence of evidence that the Tenant had a legal right to withhold rent for August or September of 2025, I find that the Tenant was obligated to pay rent when it was due.

I find that Tenant was obligated to pay rent for August even though he was served with two One Month Notices to End Tenancy, which declared that he must vacate the unit by August 31, 2025.

As the Tenant is required to pay rent when it is due, pursuant to section 26(1) of the Act, I find that the Tenant must pay \$1,913.00 in rent for August of 2025 to the Landlord.

Section 46(1) of the Act entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. Based on the undisputed

evidence I find that the Ten Day Notice to End Tenancy, served pursuant to section 46 of the Act, was posted on the Tenant's door on August 06, 2025 and received by the Tenant on that same date. I find that this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was proper notice of the Landlord's intent to end the tenancy pursuant to section 46(1) of the Act.

Section 46(4)(a) of the Act stipulates that within 5 days after receiving a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant may pay the overdue rent, in which case the notice has no effect. As the Tenant did not pay the overdue rent within 5 days of receiving the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, I find this Notice remains in full force and effect.

I therefore grant the Landlord's application for an Order of Possession based on this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated August 06, 2025, and I dismiss the Tenant's application to set aside this Notice.

As this tenancy is ending pursuant to the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated August 06, 2025, I find there is no need to consider whether a One Month Notice to End Tenancy for Cause, dated July 16, 2025, or a One Month Notice to End Tenancy for Cause, dated July 29, 2025, should be set aside or upheld. As this tenancy is ending because the Tenant did not pay rent when it was due, there is no need to determine whether the Landlord has other grounds to end the tenancy. I therefore dismiss the Tenant's application to cancel either of these One Month Notices to End Tenancy for Cause.

Section 7(1)(d) of the Regulation stipulates that a landlord can charge a fee of not more than \$25.00 for a late rent payment or a cheque being returned due to insufficient funds. Section 7(2) of the Regulation stipulates that a landlord can only charge this fee if the tenancy agreement provides for this fee.

The Addendum to the tenancy agreement provides for a \$45.00 late/NSF fee, which is not authorized by the Regulation. I find that this term of the Addendum does not comply with the legislation, and therefore I dismiss the Landlord's application for a monetary Order for any NFS fees. To be enforceable, the tenancy agreement must stipulate that the Tenant agrees to a NFS fee of \$25.00 or less.

As the Tenant has remained in possession of the rental unit and the Tenant has the legal right to remain in possession of the rental unit until at least September 16, 2025, I find the Tenant is obligated to pay rent for the first 16 days of September of 2025. Based on per diem rent of \$65.61 (\$1,968.30 divided by 30 days), I find the Tenant must pay the Landlord \$1,049.76 in rent for September of 2025 (16 X \$65.61).

If the Tenant remains in the rental unit after September 16, 2025, the Landlord retains the right to seek compensation for unpaid rent/lost revenue for any period after September 16, 2025.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

## **Conclusion**

I grant the Landlord an Order of Possession that is effective seven days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$3,062.76, which includes \$1,913.00 in unpaid rent for August of 2025, \$1,049.76 in rent for September of 2025, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$900.00 plus interest of \$36.49, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$2,126.27. If the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: September 08, 2025

Residential Tenancy Branch