

DECISION

Introduction

This hearing was adjourned to written submissions with a deadline of October 3, 2025 following a hearing on September 16, 2025 regarding the parties' applications for dispute resolution under the *Residential Tenancy Act* (the "Act").

The Tenant applied to dispute a 10 day notice to end tenancy for unpaid rent or utilities dated August 2, 2025 (the "10 Day Notice") under section 46 of the Act.

The Landlord applied for:

- an order of possession of the rental unit based on the 10 Day Notice under section 55 of the Act;
- compensation of \$450.00 for unpaid rent under section 55 of the Act; and
- authorization to recover the Landlord's filing fee from the Tenant under section 72 of the Act.

An interim decision was issued on September 16, 2025. This decision should be read together with the interim decision.

Preliminary Matters

Service of Notice of Dispute Resolution Proceeding and Evidence

According to the Landlord, he received an incomplete notice of dispute resolution proceeding package from the Tenant, and no evidence from the Tenant. The Landlord received a courtesy copy of the Tenant's dispute from the Residential Tenancy Branch. I find the evidence submitted by the Tenant consists of email correspondence between MM and the Landlord, as well as a cheque image that was emailed to the Landlord following the hearing. Therefore, I find the Landlord was sufficiently served with the Tenant's application and evidence.

The Tenant confirmed receipt of the Landlord's notice of dispute resolution proceeding package and evidence.

Service of Written Submissions

The parties provided additional submissions as permitted in the interim decision. The parties did not provide proof that they had reached any settlement. Therefore, in making this decision, I have considered all written submissions provided by the parties.

Issues to be Decided

Should the 10 Day Notice be cancelled?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to compensation for unpaid rent?

Is the Landlord entitled to recover the filing fee for his application?

Background and Evidence

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

This tenancy commenced on June 15, 2019. The rent was initially \$1,100.00 due on the first day of each month. The Tenant paid a security deposit of \$550.00.

Since January 2025, the monthly rent has been \$1,212.00. The Tenant receives a monthly subsidy of \$450.00 from a non-profit harm reduction society, which is paid by the society to the Landlord. The Tenant pays the Landlord the balance of the monthly rent in the amount of \$762.00.

The Landlord explained that the tenancy agreement was originally signed with a property management company acting on the Landlord's behalf, until the Landlord personally took over managing the tenancy starting in July 2025.

On August 2, 2025, the Landlord issued the Tenant the 10 Day Notice with an effective date of August 17, 2025. This notice states that the Tenant failed to pay rent of \$900.00 due on August 1, 2025.

The Landlord provided proof that a copy of the 10 Day Notice was sent to the Tenant via registered mail on August 2, 2025, and was delivered on August 7, 2025 (see registered mail tracking number on the cover page of this decision).

The Tenant recalled that she received the 10 Day Notice on August 8, 2025. The Tenant applied to dispute the 10 Day Notice on August 14, 2025. According to the Tenant, she did not apply to dispute the 10 Day Notice earlier as she was unsure how to go about it, and it took time to get in touch with MM, the Tenant's outreach worker, who was on vacation. The Tenant testified that she struggles with ADHD and has a hard

time understanding words, so she did not want to do something without her outreach worker's guidance.

The Landlord's Position

The Tenant paid \$805.09 on July 31, 2025, of which only \$312.00 was available for August rent, leaving an outstanding balance of \$900.00. The Tenant had meant to pay this amount consisting of \$43.09 for outstanding July utilities and \$762.00 for August rent. However, the Tenant was in arrears of \$450.00 for July rent, so the Landlord applied the payment to those arrears first. The Landlord sent a letter dated July 31, 2025 to the Tenant confirming the receipt of the payment. The Landlord also explained in his letter that he had sent several emails to the society regarding the importance that cheques reach the Landlord before the first of the month, but the society had not yet sent payment.

On August 29, 2025, the Landlord received two cheques, one for \$450.00 and another for \$812.00, which the Landlord accepted for use and occupancy only.

After the hearing on September 16, 2025, the Landlord received a tracking report from MM which shows that the original \$616.00 cheque was never delivered to the Landlord and appeared to have been sent to the wrong address. The Landlord received a re-issued \$616.00 cheque on September 19, 2024. Together with a \$15.00 payment from the Tenant for a recent gas bill and a \$450.00 payment from the society on September 17, 2025, the Tenant currently has an account credit status of \$537.58. The Landlord indicated that the payments received were for use and occupancy. The Landlord notified the Tenant of the account credit in writing on September 25, 2025.

The Landlord acknowledges that his \$450.00 claim for unpaid rent is no longer required. However, the Landlord requests an order of possession effective on October 31, 2025 and to reclaim his \$100.00 filing fee.

The Tenant's Position

MM applied for a crisis grant when she received notice that the Tenant was in arrears. Another organization issued a cheque for \$616.00 which should have been given to the Landlord between August 19 and 20, 2025.

The Tenant testified that she had paid her portion of the rent, while the society was to cover the rest. Before with the Landlord's property management company, the Tenant would call to ask if they had received the society's cheque, and the Tenant would be told that they had not received it. Sometimes it was over the date when the Tenant's rent was due, and it was pretty much out of the Tenant's hands.

Following the hearing, MM inquired with the organization and they determined that the cheque had not been cashed. Another cheque for \$616.00 was issued to the Landlord.

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.

Should the 10 Day Notice be cancelled?

Section 26(1) of the Act states that a tenant must pay rent when 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 10 day notice to end tenancy for unpaid rent.

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

Based on the Landlord's registered mail tracking records, I find the Tenant was served with a copy of the 10 Day Notice on August 7, 2025, in accordance with section 88(c) of the Act.

Under section 46(4) of the Act, a tenant may make an application to dispute a 10 day notice to end tenancy, or pay the overdue rent in full, within 5 days after receiving such a notice. If full payment is received within 5 days, the notice would be cancelled under section 46(4)(a) of the Act.

I find the Tenant did not make an application to dispute the 10 Day Notice within 5 days, or by August 12, 2025. I find the Tenant did not make an application until August 14, 2025. I find the Tenant did not request an extension of time to dispute the 10 Day Notice in her application. In any event, I find the Tenant has not provided proof that there were exceptional circumstances to warrant granting an extension of time under section 66(1) of the Act, or that there were merits to the Tenant's claim. Based on the evidence presented, I do not find the Tenant withheld rent for any of the reasons permitted under the Act.

I find that as of August 2, 2025, the Tenant owed \$900.00 for unpaid August rent.

I find the Tenant did not pay the overdue rent in full by August 12, 2025. I find \$450.00 was paid on August 8, 2025, leaving a balance of \$450.00 as of August 12, 2025. I find the remainder was not paid until August 29, 2025. I accept that the Landlord has received more payments, including after the hearing on September 16, 2025, which have eliminated all arrears.

However, I do not find that the 5-day limit under section 46(4)(a) of the Act for the Tenant to pay the overdue rent could be extended under section 66(2) of the Act in these circumstances, to cancel the 10 Day Notice.

I find the Tenant did not deduct the unpaid rent due to believing that a deduction was allowed for emergency repairs or under an order of the director. I find the rent was simply not paid in full to the Landlord when it was due. I note this appears to have occurred due to issues with the society getting the Tenant's rent subsidy to the Landlord on time. While this is regrettable, I find the Tenant is responsible to ensure that rent is paid to the Landlord in full and on time.

I find the Landlord did not agree to an extension of time for the Tenant to pay the overdue rent and re-instate the tenancy. I find the Landlord has accepted the payments received for use and occupancy only.

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.

I have found above that the 10 Day Notice was received by the Tenant on August 7, 2025, the time for paying the overdue rent or disputing the 10 Day Notice expired on August 12, 2025, and the Tenant did not pay the overdue rent or make an application for dispute resolution by that date.

Accordingly, I find the Tenant is conclusively presumed to have accepted that the tenancy ended on August 17, 2025, the effective date of the 10 Day Notice.

I dismiss the Tenant's application to dispute the 10 Day Notice without leave to re-apply.

Is the Landlord entitled to an order of possession?

Section 55(1) of the Act states that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if:

- the landlord's notice to end tenancy complies with section 52 of the Act in form and content; and
- during the dispute resolution proceeding, the director dismisses the tenant's application or upholds the landlord's notice.

Furthermore, under section 55(2)(b) of the Act, a landlord may apply for an order of possession of the rental unit if a notice to end tenancy has been given by the landlord, the tenant has not disputed the notice by making an application, and the time for making that application has expired. In these circumstances, the director may grant an order of

possession to the landlord without further dispute resolution process under section 55(4)(a) of the Act.

Having found the 10 Day Notice to comply with section 52 of the Act and having dismissed the Tenant's application, I find the Landlord is entitled to an order of possession under section 55 of the Act.

The effective date of the 10 Day Notice has already passed. I find the Tenant has paid for use and occupancy of the rental unit to the end of this month. I note that although the Tenant currently has an additional account credit of \$537.50 with the Landlord, I find this amount is insufficient to cover further use and occupancy for November 2025. Therefore, I grant an order of possession to the Landlord effective 1:00 pm on October 31, 2025.

Is the Landlord entitled to compensation for unpaid rent?

I find the Tenant has already cleared the \$450.00 in unpaid rent for August 2025, such that the Landlord's claim under this part is no longer necessary. I dismiss this claim without leave to re-apply.

Is the Landlord entitled to recover the filing fee for his application?

The Landlord has been successful in obtaining an order of possession of the rental unit, and I find the Landlord was justified in bringing his application. Therefore, I find the Landlord is entitled to recover his filing fee from the Tenant under section 72(1) of the Act.

Conclusion

The Tenant's application to dispute the 10 Day Notice is dismissed without leave to re-apply.

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective **1:00 pm on October 31, 2025**, after service upon the Tenant. The Tenant must be served with this Order as soon as possible. Should the Tenant or any occupant of the rental unit fail to comply with this Order, this Order may be filed and enforced in the Supreme Court of British Columbia.

Pursuant to section 72(1) of the Act, I grant the Landlord a Monetary Order of **\$100.00** for the Landlord's filing fee. This Order may be served on the Tenant, filed in the Small Claims Division of 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: October 7, 2025

Residential Tenancy Branch