



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Codes Landlord: OPR
Tenant: CNR MNRT RP FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. Both parties applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing and provided affirmed testimony.

The Landlord confirmed receipt of the Tenant’s Notice of Dispute Resolution Proceeding and evidence package, which I find was sufficiently served. The Tenant stated she never received the Landlord’s Notice of Dispute Resolution Proceeding and evidence. However, the Landlord provided proof of service showing he sent his package via pre-agreed email on November 7, 2025. I find this is deemed served 3 days later.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Issues

Both parties are seeking multiple remedies under multiple sections of the *Act*, a number of which were not sufficiently related to one another. Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues both parties applied for, and based on the evidence before me, I find the most pressing and related issues in this cross-application are related to the payment/non-payment of rent, potential emergency repairs and the order of possession (whether or not the tenancy will continue, or end, based on the Notice issued.) As a result, I exercise my discretion to dismiss, with leave to reapply, all of the grounds in both applications with the exception of the following grounds:

- Request for the Landlord to complete repairs

Issues to be Decided

- Should the 10 Day Notice to End Tenancy be cancelled?
 - If not, is the landlord entitled to an Order of Possession?
- Is the landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

Both parties agreed in the hearing that monthly rent in the amount of \$3,200.00. The tenancy agreement provided into evidence was signed by the parties on October 5, 2025, the same day the Tenant viewed the property. The Tenant paid a security deposit of \$1,650.00, but since the Landlord only wanted \$1,600.00 for a deposit, he applied the \$50.00 to first months' rent. The tenancy agreement started on October 15, 2025.

The Landlord stated that no rent was paid by the Tenants, aside from the \$50 security deposit overpayment, for October rent, or November rent. The Landlord pointed out that since the first month was a half month, it was only \$1,600.00 owing on October 15, 2025, and \$3,200.00 owing for November as of November 1, 2025. The Tenant paid December rent in late November.

The Landlord provided a copy of the 10 Day Notice into evidence, which he sent to the Tenant via pre-agreed email on October 23, 2025. Proof of service was provided for this. The Tenant stated she got it on October 30, 2025 but she did not feel she owed any money for October because she didn't move in until November, due to the fact that she had to clean things up and do some work before she wanted to move in. The Tenant also stated that she had an agreement with the Landlord and owner to do a bunch of work on the house in exchange for not paying November rent.

The Tenant provided a series of text messages showing the discussions that were had with the Landlord's agent as proof of the fact that she had authorization to buy all the supplies and do the work. The Landlord pointed out that they never actually agreed to

this, and it was only just the start of a discussion. The Landlord's agent stated they asked for a list of items, which he would take to the owner, and upon his approval, the work could be done. The Landlord's agent stated that the Tenant just decided what she wanted to work on and buy and never waited for the Landlord to respond and she also never provided a proper list of items to the Landlord in advance.

The Tenant stated that she had the ducts cleaned, and various other items around the house repaired. She also stated that the house had evidence of rodents, which she worked on. The Tenant provided a few receipts of items she bought. She stated that her son did some roof repairs, but they did not properly itemize this or bill it like a normal company would.

The Landlord's agent stated that none of the work should have been done, since they were not notified up front and given a chance to do the work themselves or to approve the Tenant to do the work.

Analysis

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy under this section has five days after receipt to either pay rent in full or dispute the notice by filing an application for dispute resolution.

I find the Notice is deemed served to the Tenants on October 26, 2025, 3 days after it was sent to the pre-agreed email. Proof of service was provided. I acknowledge that the Tenants withheld rent due to issues they found with the rental unit. However, the Tenants were not entitled to unilaterally decide to withhold rent.

There are five situations when a tenant may deduct money from the rent:

1. The tenant has an arbitrator's decision allowing the deduction
2. The landlord illegally increases the rent
3. The landlord has overcharged for a security or pet damage deposit
4. The landlord refuses the tenant's written request for reimbursement of emergency repairs
5. The tenant has the landlord's written permission allowing a rent reduction

The only one remotely applicable is the emergency repairs issue. However, I do not find the repairs noted by the Tenant qualify as emergency repairs under the *Act*.

I turn to Section 33(1) of the Act, which defines "emergency repairs" as repairs that are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and made for the purpose of repairing:

- Major leaks in pipes or the roof,
- Damaged or blocked water or sewer pipes or plumbing fixtures,
- The primary heating system,
- Damaged or defective locks that give access to a rental unit, or
- The electrical systems.

There is no evidence to show that the furnace itself was not actually working. I note the Tenant paid to have the furnace serviced, and cleaned out (ducts and filter), but I am not satisfied this work qualifies as an emergency repair, since there is insufficient evidence that the furnace wasn't functioning properly already. With respect to the alleged roof repairs done by the Tenant, I do not find her testimony and evidence on this point was clear whatsoever. It appears the Tenants did some minor roof repairs and there is little to no evidence showing this was authorized by the Landlord. I do not find the text messages provided into evidence by the Tenant are sufficiently clear such that I could find they had permission to do the repairs. Further, I do not find the issues were sufficiently articulated to me, or laid out to the Landlord such that I could find any of them qualify as an emergency repair under the Act.

I also note that section 33(3) of the Act allows for a tenant to complete an emergency repair only when the landlord has not completed the emergency repair in reasonable amount of time and the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs. I find the email communications provided into evidence are not sufficiently clear and I find no evidence that any sort of agreement was reached. I also find no evidence the Tenant gave the Landlord a chance to do the repairs themselves, after making any sort of specific emergency repair request. Overall, I find there is a lack of clarity regarding the repairs, and I do not find sufficient evidence that the Tenant had any legal basis to withhold rent.

The tenancy agreement was signed by the Tenant on October 5, and it started on October 15, which is when the rights and obligations started pertaining to rent, regardless of when the Tenant moved in. If the Tenant had issues with the rental unit, she could have either chosen not to rent the unit, or rent it, move in, and then file an

application for dispute resolution seeking repairs or other matters, prior to withholding rent.

Rent in the amount of \$1,600.00 was due on October 15. Only \$1,550.00 was owing due to a deposit overpayment, and this was the amount noted on the 10 day notice.

As rent has not been paid when due, and there is insufficient evidence before me that the Tenant had a right under the *Act* to deduct all or a portion of rent, I find that the Tenant's Application is dismissed. When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession and a monetary order for the unpaid rent to a landlord. Having reviewed the 10 Day Notice, I find it complied with section 52 of the *Act*. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective 7 days after it is served on the Tenants.

Next, I turn to the amount of rent that is owed. I am satisfied that only \$50.00 has been paid towards rent for October and November, and in the absence of evidence showing a legal basis to withhold rent, I find the Tenants owe \$4,750.00 for half of October and all of November rent.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was substantially successful in this hearing, I order the tenant to repay the \$100. In summary, I grant \$4,850.00 to the landlord.

Conclusion

The Tenant's application to cancel the 10 Day Notice is dismissed.

The landlord is granted an order of possession effective **7 days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$4,850.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 *Residential Tenancy Act*.

Dated: December 02, 2025

Residential Tenancy Branch