DECISION

Introduction

This hearing was convened as a result of the parties' applications for dispute resolution under the *Residential Tenancy Act* (the "Act").

The Tenant applied for:

- cancellation of a 10 day notice to end tenancy for unpaid rent or utilities dated November 7, 2025 (the "10 Day Notice") under section 46 of the Act;
- disputing a rent increase above the amount allowed by law under section 41 of the Act;
- an order that the Landlord comply with the Act, the regulations, or the tenancy agreement under section 62(3) of the Act; and
- authorization to recover the Tenant's filing fee from the Landlord under section 72(1) 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 $176.49 for unpaid rent under section 55 of the Act; and
- authorization to recover the Landlord's filing fee from the Tenant under section 72(1) of the Act.

The Tenant and the Landlord attended this hearing and gave affirmed testimony. The Tenant's friend, JS, attended as a non-participating support person. The Landlord was represented by legal counsel AE.

Preliminary Matters

Service of Notice of Dispute Resolution Proceeding and Evidence

AE confirmed that the Landlord received the Tenant's notice of dispute resolution proceeding and evidence over three emails. AE stated that the Landlord was unable to open two PDF files sent by the Tenant. These files relate to the Tenant's requests for the Landlord to comply with repairs, to retain a property manager, and an inspection on June 17, 2025.

I find the two files that the Landlord was unable to view are not related to the issues that must be decided in this dispute (see below). Therefore, I have excluded this evidence for the purpose of this decision.

The Landlord provided proof that her notice of dispute resolution proceeding and evidence package was emailed to the Tenant and also sent to the Tenant via registered mail, which was delivered on December 9, 2025 (see first tracking number on the cover page of this decision).

The Tenant requested that the Landlord's evidence be excluded because the Tenant was served at a Shaw email address that the Tenant no longer uses. I find the Tenant received the Landlord's materials by registered mail in addition to email. I find the Tenant was duly served with the Landlord's evidence package in accordance with section 88(c) of the Act. Therefore, I have not excluded any portion of the Landlord's evidence from consideration.

Scope of Proceeding

Rule 2.2 of the Rules of Procedure states that the claim is limited to what is stated in the application. Under Rule 2.3 of the Rules of Procedure, claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to re-apply.

Rule 6.2 of the Rules of Procedure further states that if a party has applied to cancel a notice to end tenancy, the arbitrator may decline to hear other claims that have been included in the application, and the arbitrator may dismiss such matters with or without leave to re-apply.

The Tenant's application includes a claim for the Landlord to comply with the Act, the regulations, and the tenancy agreement. The Tenant seeks compliance for the Landlord to have a property manager, perform maintenance and repairs, and cease harassment and intimidation. I find these issues are unrelated to the Tenant's claim to cancel the 10 Day Notice. Accordingly, I dismiss the Tenant's claim for compliance with leave to re-apply. Leave to re-apply is not an extension of any applicable limitation period.

During the hearing, the Tenant also verbally requested other remedies, including monetary compensation, which are not stated in his application. Therefore, I have not referred to those issues in this decision.

Issues to be Decided

Is the Tenant entitled to dispute an unlawful rent increase? Should the 10 Day Notice be cancelled?

Is the Landlord entitled to an order of possession and compensation for unpaid rent?

Are the parties entitled to recover their filing fees?

Background and Evidence

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

This tenancy commenced on November 21, 2019. The rent was initially $5,000.00 due on the first day of each month. The Tenant paid a security deposit of $2,500.00 and pet damage deposit of $500.00.

According to the Landlord, she gave the Tenant notices of rent increase over the years, and the rent was $5,271.00 as of November 1, 2024.

The Tenant testified that the rent was $5,278.50 per month, but that he would e-transfer the Landlord $5,279.00 per month because he is unable to e-transfer $0.50.

In May 2025, the Landlord issued the Tenant a notice of rent increase (#RTB-7) dated May 5, 2025. According to this notice, the date of the last rent increase was November 1, 2024, the current rent was $5,271.00, and a rent increase of $184.49 would become effective on November 1, 2025 for a new rent payable of $5,455.49.

On May 28, 2025, the Tenant emailed the Landlord expressing that the Tenant's name, the rent amount, and "interest amount" were incorrect. During the hearing, the Tenant explained that he meant the increase amount was incorrect.

On November 1, 2025, the Tenant delivered a rent cheque of $5,279.00 to AE's office for payment of the rent. According to the Landlord, this was malicious compliance, as the Tenant had always paid rent by e-transfer. The Landlord was unable to deposit the cheque because the Tenant used the Landlord's nickname instead of her legal name.

On November 7, 2025, the Landlord issued the 10 Day Notice to the Tenant with an effective date of November 24, 2025. This notice states that the Tenant failed to pay rent of $5,455.49 due on November 1, 2025.

The Landlord provided proof that copies of the 10 Day Notice were sent to the Tenant via email and registered mail sent on November 7, 2025 (see second tracking number on the cover page).

According to the Tenant's application, the Tenant received a copy of the 10 Day Notice via pre-agreed email on November 7, 2025. The Tenant e-transferred $5,279.00 to the Landlord on the same day. The Tenant made his application on November 10, 2025.

The Landlord testified that the Tenant had been paying monthly rent of $5,271.00 for over a year. However, upon verifying her records during the hearing, the Landlord

acknowledged that the Tenant paid $5,279.00 for October 2025 rent. The Landlord confirmed that the Tenant paid $5,279.00 on December 1, 2025 for December rent.

The Landlord submits that the May 5, 2025 notice of rent increase should be accepted as valid. According to the Landlord, she is in her 70s and made an honest mistake by calculating 3.5% instead of the permitted 3%. The Landlord submits that the Tenant had responded with name calling and complained that his name was spelled incorrectly, which was only a technical complaint. The Landlord submits that the Tenant did not take issue until the time for payment. The Landlord argues that the Tenant should be taken to have accepted the rent increase as if in writing. The Landlord requests an order of possession of the rental unit and payment of the balance of rent for November and December.

The Tenant submits that he had declined the rent increase by email. The Tenant requests that the 10 Day Notice be cancelled and the May 5, 2025 rent increase be declared void.

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.

Is the Tenant entitled to dispute an unlawful rent increase? Should the 10 Day Notice be cancelled?

Amount of Rent Payable Under the Tenancy Agreement

In this case, I accept the Tenant's testimony that the monthly rent has been $5,278.50 since November 1, 2024. I find the Tenant voluntarily rounds up this amount to $5,279.00 when paying rent to the Landlord. I accept the Landlord believed that the Tenant was e-transferring $5,271.00 per month, which led the Landlord to indicate the rent as such on the May 5, 2025 notice of rent increase. However, I find this belief was incorrect. I find the Landlord verified her records during the hearing and confirmed that the Tenant had e-transferred $5,279.00 in October 2025. Therefore, I prefer the Tenant's testimony that the rent was $5,278.50 per month, and not $5,271.00 as claimed by the Landlord.

Under section 41 of the Act, a landlord must not increase rent except in accordance with Part 3 of the Act.

Section 43(1) of the Act provides that a landlord may impose a rent increase only up to the amount:

a. calculated in accordance with the regulations (annual rent increase)

b. ordered by the director on an application under section 43(3) of the Act (additional rent increase), or
c. agreed to by the tenant in writing (agreed rent increase)

I find the notice of rent increase given by the Landlord dated May 5, 2025 was meant to be an annual rent increase. However, I find the increase requested by the Landlord (resulting in a new rent of $5,455.59) exceeded the maximum allowable rent increase under the regulations (3% for a rent increase imposed in 2025), which should have resulted in a new rent of $5,436.85.

I find the Tenant objected to the May 5, 2025 notice of rent increase in his email to the Landlord dated May 28, 2025. I find it can be inferred from the Tenant's reference to the "interest amount" being incorrect, that the Tenant also disagrees with the amount of the rent increase. I find the Tenant did not consent to the proposed rent amount of $5,455.59 at any time, whether expressly or implicitly. I find the Tenant never paid the increase to the Landlord. Therefore, I do not find the Tenant to be estopped from disputing the rent increase. I find the Landlord also had the opportunity to re-issue a correct notice upon receiving the Tenant's objection by email, but did not do so.

Section 43(5) of the Act provides that if a landlord collects a rent increase that does not comply with Part 3 of the Act, the tenant may deduct the increase from rent or otherwise recover the increase.

I find that although the excess rent increase requested by the Landlord is not significantly more than the legal maximum, the increase is nevertheless non-compliant because it is excessive. I find that as a result, the May 5, 2025 rent increase does not comply with Part 3 of the Act (that is, section 43(1) of the Act) and is void in its entirety. I note that I do not find it would be appropriate to write down the proposed increase to the legal maximum to cure the notice, as doing so may incentivize landlords to impose excessive increases.

For these reasons, I find the Tenant's rent remains at $5,278.50 per month.

The 10 Day Notice

Under section 26(1) of the Act, 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.

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

I find the Tenant received a copy of the 10 Day Notice on November 7, 2025 and made his application on November 10, 2025, within the 5-day limit required under section 46(4)(b) of the Act.

I have found above that the rent increase requested in the May 5, 2025 notice of rent increase is invalid. I find the Tenant is authorized under section 43(5) of the Act to deduct or withhold the non-compliant rent increase.

I find that by paying $5,279.00 to the Landlord on November 1, 2025, the Tenant paid November rent to the Landlord in full. As such, I find the 10 Day Notice is cancelled pursuant to section 46(4)(a) of the Act. Additionally, I find the Tenant has paid December rent to the Landlord in full.

Therefore, I conclude that the 10 Day Notice is cancelled and of no force or effect.

Is the Landlord entitled to an order of possession and compensation for unpaid rent?

Given my finding that the May 5, 2025 rent increase is invalid, and having cancelled the 10 Day Notice, I find the Landlord is not entitled to an order of possession of the rental unit or compensation for unpaid rent.

Are the parties entitled to recover their filing fees?

The Tenant has been successful with his claims to dispute the 10 Day Notice and the rent increase. I find the Tenant is entitled to recover his filing fee from the Landlord under section 72(1) of the Act.

As the Landlord has not been successful in her application, I find the Landlord is not entitled to reimbursement of her filing fee.

Conclusion

The Landlord's application is dismissed in its entirety without leave to re-apply.

The 10 Day Notice is cancelled. This tenancy will continue until ended in accordance with the Act.

The Tenant's claim to dispute the May 5, 2025 rent increase is granted. The monthly rent is $5,278.50.

Pursuant to section 72(1) of the Act, I grant the Tenant a Monetary Order of **$100.00** for the Tenant's filing fee. This Order may be served on the Landlord, filed in the Small Claims Division of the Provincial Court of British Columbia, and enforced as an order of that Court. Alternatively, and pursuant to section 72(2)(a) of the Act, I authorize the

Tenant to deduct $100.00 from one future payment of rent due to the Landlord to fully satisfy this Order.

The Tenant's claim for the Landlord to comply with the Act, regulations, or tenancy agreement is severed under Rule 6.2 of the Rules of Procedure and is dismissed with leave to re-apply.

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: December 18, 2025

Residential Tenancy Branch