

DECISION

Introduction

This hearing dealt with Applications for Dispute Resolution from both the Tenants and the Landlord under the *Residential Tenancy Act* (the Act). The Tenants' Application for Dispute Resolution, filed on November 14, 2025 (the Application), is 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
- An order to allow the Tenants to reduce rent for repairs, services, or facilities agreed upon but not provided, under sections 27 and 65 of the Act
- An order for the Landlord to provide services or facilities required by law under section 27 of the Act
- An order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- An order to end the tenancy based on a frustrated tenancy agreement under section 44 of the Act

The Landlord's Application for Dispute Resolution, filed on November 20, 2025 (the Cross Application), is for:

- An Order of Possession based on the 10 Day Notice under sections 46 and 55 of the Act
- A Monetary Order for unpaid rent under section 67 of the Act
- Authorization to recover the filing fee for the Cross Application from the Tenants under section 72 of the Act

Service of Notice of Dispute Resolution Proceedings and Evidence

Both parties acknowledged receipt of the Notice of Dispute Resolution Proceeding from the other and raised no concerns regarding service. I therefore find that the Proceeding Packages for the Application and the Cross Application were duly served in accordance with the Act.

Both parties also acknowledged receipt of the other's evidence, raised no concerns regarding service, and confirmed they had time to review the other party's documents prior to the hearing. I therefore find that each party's evidence was duly served to the other in accordance with the Act.

Preliminary Matters

Severance of Claim for Reduction of Rent

Rule 2.3 of the Residential Tenancy Branch (RTB) Rules of Procedure states that claims made in an Application for Dispute Resolution must be related to each other. Under Rule 6.2, an arbitrator may use their discretion to dismiss unrelated claims contained in a single application, with or without leave to reapply, if they determine it is appropriate to do so.

The parties were given a priority hearing date to address the question of the validity of the 10 Day Notice. That the Tenants are now seeking a reduction of rent in relation to services or facilities allegedly not provided does not justify non-payment of rent under the Act. Therefore, I determined that the Tenants' claim for a reduction of rent was not sufficiently related to cancellation of the 10 Day Notice to warrant the claims being heard together.

As a result, I am exercising my discretion to dismiss the following issue, with leave to reapply:

- An order to allow the Tenants to reduce rent for repairs, services, or facilities agreed upon but not provided, under sections 27 and 65 of the Act

Leave to reapply is not an extension of any applicable time limit.

Increased Claim for Unpaid Rent

Agent for the Landlord, M.B. (the Landlord) requested that the Cross Application be amended to include a claim for unpaid rent for December 2025.

The undisputed testimony of the Landlord is that the Tenants continue to reside in the rental unit but did not pay any rent for the month of December. Rule 7.12 of the RTB Rules of Procedure states that in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

I find it could be reasonably anticipated by the Tenants that the Landlord would seek compensation for unpaid rent for the month that they have continued to reside in the rental unit past the effective date of the 10 Day Notice. I therefore allow the Landlord to claim unpaid rent of \$2,500.00 for December 2025, in addition to the \$2,500.00 claimed in the Cross Application for November.

Therefore, the Cross Application is amended to claim unpaid rent of \$5,000.00.

Amended 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?

Are the Tenants entitled to an order for the Landlord to provide services or facilities?

Are the Tenants entitled to an order to suspend or set conditions on the Landlord's right to enter the rental unit?

Are the Tenants entitled to an order to end the tenancy based on a frustrated tenancy agreement?

Is the Landlord entitled to recover the filing fee for the Cross Application from the Tenants?

Background and Evidence

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

The parties agree that this one-year, fixed term tenancy began on January 1, 2025, with a monthly rent of \$2,500.00, due on the first day of the month. The Tenants paid a security deposit of \$1,250.00 on November 27, 2024, which is held in trust by the corporate Landlord.

The 10 Day Notice submitted into evidence by both parties was signed and dated by the Landlord, as Agent for the owners of the rental unit, on November 6, 2025, and states unpaid rent of \$2,500.00 was due on November 1. The effective date of the 10 Day Notice is November 22.

The Landlord testified that the 10 Day Notice was sent to the Tenants by email on November 6, 2025. The Landlord states the email was sent to the email address for service the Tenants provided in the tenancy agreement. Tenant I.J. (the Tenant) acknowledged receiving the 10 Day Notice on November 9

It is undisputed that the Tenants did not pay rent for November 2025, and that they have not made any payments towards the arrears since the 10 Day Notice was issued.

The Tenant testified that the Tenants currently have no source of income and that their employment options are limited by their immigration status and work visas. The Tenant further testified that they knew they would not be able to continue to make the monthly rent payments, and that they had attempted to end the tenancy early, but that the

Landlord would not agree to their proposed lease transition or permit the Tenants to end the fixed term tenancy early without penalty.

The Tenants' evidence includes a copy of a text message they sent to the Landlord on September 14, 2025, stating:

- A number of services and amenities that impacted the Tenants' decision to lease the rental unit are frequently unavailable
- The Tenants have noticed safety and security issues at the rental property, and had their bicycles and a package stolen
- The common areas of the rental property are not kept to reasonable cleanliness and sanitary standards
- The Tenants would like to vacate the rental unit by October 15 or November 1, at the latest
- The Tenants would facilitate showings and help spread the word to new prospective tenants in exchange for being released from any penalties for early termination of the fixed term tenancy

The Landlord acknowledged there was correspondence with the Tenants discussing the possibility of ending the tenancy early. The Landlord testified they never received a formal written notice to end the tenancy from the Tenants.

The Tenants' evidence also includes email correspondence with the Landlord from September 15 to September 26, wherein the parties discuss the possibility of ending the tenancy early. On September 22, the Landlord emailed Tenant J.M.S.M. stating:

Unfortunately, the landlord cannot agree to allowing a move out date for Oct. 1, we are willing to work with you but that is only 6 days away. You will need to provide us with proper notice indicating when you plan to leave. If you choose to leave earlier than the end of your term, please provide us written notice when you would like to leave (if received before the end of September) it would be effective for Oct 31, 2025.

As soon as I receive that notice I will do my best to show the property and rent the unit to avoid penalty. Please note: the penalty you indicate is not 3 months but \$1250 as outlined in section 5 of your agreement.

The landlord also has the right to pursue the tenant for additional months that the unit may sit vacant for the remainder of the term. If we are successful to rent the unit by Oct 31, we will waive the \$1,250 liquidated damage fee.

On September 26, 2025, the Landlord sent a follow-up email to Tenant J.M.S.M. stating they had not received a reply to the September 22 email and were therefore unsure of the Tenants' intentions moving forward regarding the tenancy.

The Landlord seeks an Order of Possession based on the 10 Day Notice.

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.

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

Section 46 of the Act states that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the RTB.

It is undisputed that the 10 Day Notice was duly served to the Tenants by email, in accordance with section 43 of the *Residential Tenancy Regulation* (the Regulation), on November 6, 2025. Under section 44 of the Regulation, a document that is sent by email is deemed to be received the third day after emailing.

The Application states the Tenants received the 10 Day Notice on November 9, 2025, which was the third day after it was emailed to their pre-agreed email address for service. Therefore, I find that the Tenants received the 10 Day Notice on November 9. As a result, the Tenants had to dispute the 10 Day Notice or to pay the full amount of the arrears by November 14.

As the Application was filed on November 14, 2025, I am satisfied that the Tenants disputed the 10 Day Notice within the required time. Despite the Application being filed in time, the Tenant acknowledged that no rent had been paid for November when the 10 Day Notice was issued. The Tenant also confirmed no rent has been paid for November or December since the 10 Day Notice was issued.

The Tenants provided financial hardship due to employment and immigration status as the reasons for non-payment of the rent. Financial difficulty is not a reason under the Act that permits a tenant to withhold rent.

For the above reasons, the Tenants' Application to cancel the 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's application to set aside a notice to end a tenancy is dismissed, the arbitrator must grant the landlord an order of possession where the notice complies with section 52 of the Act.

I have reviewed the 10 Day Notice and find that it complies with the formal requirements set out in section 52 of the Act. Specifically, the 10 Day Notice is signed and dated by the Landlord, states the address of the rental unit, states the effective date, sets out the grounds for ending the tenancy, and it is in the approved form (#RTB-30). Therefore, I find that the Landlord is entitled to an Order of Possession based on the 10 Day Notice under sections 46 and 55 of the Act.

Policy Guideline #54 sets out factors to consider in determining the effective date of an order of possession. I find that the relevant factors in the present case are as follows:

- The Tenant stated an intention to vacate the rental unit on December 31, 2025
- The Landlord requested that the monetary order include unpaid rent for the month of December

Policy Guideline #54 states that the effective date for orders of possession, when the effective date of the notice to end tenancy has already passed, have generally been set for seven days after the order is received. Further, it states that the arbitrator has the discretion to set the effective date of the order of possession based on what they have determined is appropriate given the totality of the evidence and submissions of the parties.

To balance the interests of both parties and in consideration of the circumstances listed above, I grant the Landlord an Order of Possession effective at 1:00 PM on December 31, 2025.

Is the Landlord entitled to a Monetary Order for unpaid rent?

Section 55(1.1) of the Act states that if a tenant's application to cancel a notice to end a tenancy under section 46 of the Act for non-payment of rent is dismissed, the arbitrator must grant the landlord an order requiring the repayment of the unpaid rent if the notice complies with section 52 of the Act.

As set out above, I find that the 10 Day Notice complies with section 52 of the Act.

As it is undisputed that no rent has been paid for November or December 2025, I find that the Landlord has established a claim for unpaid rent in the amount of \$5,000.00 (\$2,500.00 x 2) for those months.

Section 67 of the Act states that if damage or loss results from a tenancy, an arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

Therefore, I find the Landlord is entitled to a monetary award for unpaid rent under section 67 of the Act, in the amount of \$5,000.00.

Under section 72(2)(b) of the Act, I permit the Landlord to retain the Tenants' security deposit of \$1,250.00, plus interest, in partial satisfaction of the monetary award.

Are the Tenants entitled to an Order for the Landlord to provide services or facilities?

Rule 6.2 of the RTB Rules of Procedure permits an arbitrator to dismiss other claims that are included in an application to cancel a notice to end tenancy.

As I have found that the tenancy is ending, I find it is not necessary to analyze the Tenants' Application for an order for the Landlord to provide services or facilities under section 27 of the Act. This portion of the Tenants' Application is therefore dismissed, without leave to reapply.

Are the Tenants entitled to an order to end the tenancy based on a frustrated tenancy agreement?

As I have determined that the tenancy is ending on December 31, 2025, due to the 10 Day Notice, I find it is not necessary to analyze the Tenants' Application for an order ending the tenancy on the basis of a frustrated tenancy agreement. Therefore, the Tenants' Application under section 44 of the Act is dismissed, without leave to reapply.

Is the Landlord entitled to recover the filing fee for the Cross Application from the Tenants?

As the Landlord was successful, I grant their request to recover the \$100.00 filing fee paid for the Cross Application from the Tenants under section 72 of the Act.

Conclusion

The Tenant's Application is dismissed in its entirety, without leave to reapply.

I grant an Order of Possession to the Landlord **effective by 1:00 PM on December 31, 2025, after service of this Order on the Tenants**. Should the Tenants 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 **\$3,835.35** as follows:

Monetary Issue	Granted Amount
A Monetary Order for unpaid rent under sections 67 and 55 of the Act	\$5,000.00
Authorization to retain the Tenants' security deposit in partial satisfaction of the monetary order under section 72 of the Act	-\$1,250.00
Amount of interest owed on security deposit from November 27, 2024 to the date of this Order	-\$14.65
Authorization to recover the filing fee for the Cross Application from the Tenants under section 72 of the Act	\$100.00
Total Amount	\$3,835.35

The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims 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: December 17, 2025

Residential Tenancy Branch