

DECISION

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- An Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) under sections 46 and 55 of the Act
- A Monetary Order for unpaid rent and/or utilities under section 67 of the Act
- Authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

This hearing also dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) 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 suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- Authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Tenant acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

I find that the Landlords acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

Service of Evidence

Both parties advised they served their evidence via Canada Post and tracking numbers were provided for each. The tracking number for the Tenant's evidence shows it was delivered, but the Landlords deny receiving any evidence in the package. The tracking number shows the package was signed for, and as such, I find that the Tenant's evidence was properly served under the Act.

The tracking number for the Landlords' package shows that notice cards were left but the package was never picked up and the items were returned to sender. The Tenant argued they may have gotten something from Canada Post, but they have not checked. As stated in Policy Guideline 12, where a document is served by Registered Mail the refusal of a party to accept or pick up the item, does not override the deeming provision. Given that the Tenant did not deny receiving a notice card from Canada Post, I deemed the evidence served on the Tenant the 5th day after it was delivered and that the evidence was properly served under the Act.

Preliminary Matter

- Severing

The following issue is dismissed with leave to reapply:

- An order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act

Residential Tenancy Branch Rules of Procedure, Rule 6.2, states that if, in the course of the dispute resolution proceeding the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply. I find that the issue of entry into the rental unit is not significantly related to the issue of unpaid rent.

Aside from the application to cancel the Notice to End Tenancy, I am exercising my discretion to dismiss these issues identified in the application with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

Issues to be Decided

Should the Landlords' 10 Day Notice be cancelled? If not, are the Landlords entitled to an Order of Possession?

Are the Landlords entitled to recover the filing fee for this application from the Tenant?

Is the Tenant entitled to recover the filing fee for this application from the Landlords?

Background and Evidence

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

Evidence was provided showing that this tenancy began on April 15, 2023, with a monthly rent of \$4,100.00 due on the first of the month.

The Tenant is disputing a 10 Day Notice of Unpaid Rent, and the Landlords are seeking an Order of Possession and Monetary Order based on a 10 Day Notice for Unpaid Rent.

The Landlords served a 10 Day Notice for Unpaid rent on the Tenant in the amount of \$2,990.00 (the 10 Day Notice). The Landlords argued they posted the 10 Day Notice on the rental unit door on December 20, 2025, and the Tenant argued it was not posted to their door until January 2, 2026.

The Landlords' position is that the unpaid rent was \$2,900.00 and the Landlords made a slight typo on the 10 Day Notice amount. The Landlords argued this was owed from October 2025 and November 2025 rent. The Landlords also argued a portion of December 2025, January 2026 rent and utilities is owed. Originally the Landlords argued \$11,900.00 is owed and then the Landlords advised the Tenants made some payments and only \$7,620.00 is owed.

The Tenants' position is that they paid off any amount owed. The Tenants argued the \$2,900.00 was issued for December 2025 rent which they paid in cash and e-transfer.

Analysis

Should the Landlords' 10 Day Notice be cancelled? If not, are the Landlords 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 Residential Tenancy Branch. If the tenant(s) do not pay the arrears or dispute the 10 Day Notice they are conclusively presumed to have accepted the end of the tenancy under section 46(5).

The Landlords argued they served the 10 Day Notice on December 20, 2025, and provided a proof of service which is dated the same date the Landlords filed their application. The Tenant argued the 10 Day Notice was not posted on their door until January 2, 2025. Both parties provided photographs of the 10 Day Notice on the door; however, there is no date on the photographs. The Landlords provided a proof of service form; however, it was signed and dated the same date the Landlords filed their application. Additionally, two copies of the proof of service were provided as the first copy was not signed by the Landlords or the witness.

Given the Tenants disputes the 10 Day Notice was posted on December 20, 2025, the proof of service was not filed out till the day the Landlords filed their application and neither party provided a dated photograph showing the 10 Day Notice was posted to the door. I find I cannot confirm the date the 10 Day Notice was served. As such, I find that the Tenant disputed the 10 Day Notice within the timeframe required.

The Landlords argued the amount owed was due for October 2025 and November 2025 unpaid rent; however, the Landlords' worksheet states this was owed on December 1, 2025, lists the amount owed as \$4,100.00 and the Tenant paid \$1,200.00, which does not support that the 10 Day Notice was issued for past unpaid rent for October 2025 and November 2025. Additionally, the Landlords provided no bank records or evidence to support what amounts have been paid. The Landlords' worksheet states that the Tenant paid \$1,200.00 towards the \$4,100.00 but also confirmed they received an e-transfer and cash from the Tenant for \$3,000.00 and \$680.00. The Landlords also listed the wrong amount on the 10 Day Notice. I find that the Landlords' testimony and worksheet regarding the amount owed and the amount paid by the Tenant is inconsistent. These inconsistencies and errors call into question what amount is owed by the Tenant. As such, I find that the Landlords have failed to prove the amount owed in the 10 Day Notice

For the above reasons, the Landlords' application for an Order of Possession and Monetary Order based on the 10 Day Notice under sections 46 and 55 of the Act is dismissed, without leave to reapply. Therefore, the Tenant's application is granted for cancellation of the 10 Day Notice under sections 46 and 55 of the Act.

Is the Landlords or the Tenant entitled to recover the filing fee for this application from the other?

As the Landlords were not successful in this application, the Landlords' application for authorization to recover the filing fee for this application from the Tenant under section 72 of the Act is dismissed, without leave to reapply.

As the Tenant was successful in their application, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act. The Tenant can withhold \$100.00 from one future rent payment to recover the filing fee, under section 72 of the Act

Conclusion

The Tenant's application is granted for cancellation of 10 Day Notice under sections 46 and 55 of the Act.

The 10 Day Notice dated December 20, 2025, is cancelled and is of no force or effect. This tenancy continues until it is ended in accordance with the Act.

The Tenant can withhold \$100.00 from one future rent payment to recover the filing fee, under section 72 of the Act.

The Landlords' application is dismissed in its entirety, without leave to reapply.

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: January 30, 2026

Residential Tenancy Branch