



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding 1327894 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, CNR, RP, OLC

### Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act* (“the Act”).

On December 16, 2022, the Tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 8, 2022.

On January 9, 2023, the Landlord applied for an order of possession for the rental unit and a monetary order for unpaid rent based on the issuance of 10 Day Notices to End Tenancy for Unpaid Rent or Utilities dated December 8, 2022, and January 14, 2023.

The matter was set for a conference call hearing. The Landlord’s agent attended the hearing; however, the Tenant did not.

The Landlord was provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

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.

### Issues to be Decided.

- Has the tenancy ended due to a breach of the tenancy agreement regarding payment of rent; and is the Landlord entitled to an order of possession and monetary order due to non-payment of rent?

### Background and Evidence

The Landlord testified that the tenancy began on September 1, 2022, on a month-to-month basis. Rent in the amount of \$2,500.00 is due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$1,250.00. The Tenant is responsible to pay 70% of the gas and hydro costs.

### 10 Day Notice

The Landlord testified that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 8, 2022, and another 10 Day Notice to End Tenancy for Unpaid rent dated January 14, 2023.

The 10 Day Notice dated December 8, 2022, indicates the Tenant failed to pay \$2,500.00 that was due on December 8, 2022.

The 10 Day Notice dated January 14 indicates the Tenant failed to pay \$2,500.00 that was due on December 8, 2022.

The Landlord provided a copy of the 10 Day Notices.

The 10 Day Notices informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenants had five days to dispute the Notice. The Tenants application indicates the Tenant received the 10 Day Notice on December 8, 2022. The Tenant disputed the 10 Day Notice on December 16, 2022. The Tenant's application to dispute the 10 Day Notice was made late.

The line remained open while the phone system was monitored for fourteen minutes, and the Tenant did not call into the hearing during this time. Therefore, as the Applicant did not attend the hearing by 11:14 am, I dismiss the Tenant's application without leave to reapply.

The Landlord testified that the Tenant vacated the rental unit on January 22, 2023. The Landlord is not seeking an order of possession for the rental unit but is requesting a monetary order for unpaid rent.

The Landlord testified that the Tenant did not pay the rent owing under the tenancy agreement or the months of December 2022, and January 2023. The Landlord is seeking \$5,000.00 for unpaid rent.

The Landlord testified that the Tenant has also failed to pay utility costs but was unable to satisfy me that the Tenant was provided a demand letter and given 30 days to pay. The Landlords claim for unpaid utility costs is dismissed with leave to reapply.

### Analysis

Section 26 of the Act states that a Tenant must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the Act, the regulations, or the tenancy agreement, unless the Tenant has a right under this Act to deduct all or a portion of the rent.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant failed to pay the rent owing under the tenancy agreement for December 2022 and January 2023. I find that the Tenant owes the Landlord \$5,000.00 in unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$5,100.00 comprised of \$5,000.00 in unpaid rent for the above-mentioned months and the \$100.00 fee paid by the Landlord for this hearing. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

### Conclusion

The Tenant moved out of the rental unit prior to the hearing and failed to attend the hearing. The Tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 8, 2022, is dismissed.

The Landlord's application was successful. The Landlord is granted a monetary order for unpaid rent and the cost of the filing fee in the amount of \$5,100.00.

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: April 24, 2023