

DECISION

Introduction

This hearing dealt with Applications for Dispute Resolution from both the Landlord and the Tenant under the *Residential Tenancy Act* (the Act). The Landlord's Application for Dispute Resolution, filed on May 30, 2025 (the Application), is for:

- An Order of Possession based on a One Month Notice to End Tenancy for Cause (One Month Notice) under sections 47 and 55 of the Act
- Authorization to recover the filing fee for the Application from the Tenant under section 72 of the Act

The Tenant's Application for Dispute Resolution, filed on June 9, 2025 (the Cross 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 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 authorizing the Tenant to change the locks to the rental unit under section 70(2) of the Act
- An order requiring the Landlord to comply with the Act, regulation, or tenancy agreement under section 62 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

The Tenant and the Tenant's Agent, A.C. had technical difficulties calling into the hearing and were unable to hear the proceedings until they disconnected from the call and then dialed back in. While waiting for the Tenant to dial back into the hearing, the Landlord acknowledged receiving the Proceeding Package for the Cross Application, including a copy of the Tenant's evidence, and raised no concerns regarding service.

I therefore find the Proceeding Package and the Tenant's evidence for the Cross Application was duly served to the Landlord in accordance with the Act. As the evidence submitted by the Landlord in relation to the 10 Day Notice was also submitted by the Tenant, I further find the Landlord's evidence for the Cross Application was sufficiently served to the Tenant under section 71(2)(c) of the Act.

For the reasons that follow, the hearing proceeded with the Cross Application only. Therefore, I make no findings regarding service of the Proceeding Package for the Application or the exchange of evidence related to the Application.

Preliminary Matters

Severance of Application for Order of Possession Based on One Month Notice

Residential Tenancy Branch (RTB) Rule of Procedure 2.3 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 scheduled to be heard in the same hearing, with or without leave to reapply, if they determine it is appropriate to do so.

The Application sought an Order of Possession based on the One Month Notice. The Cross Application sought to cancel the 10 Day Notice. While the effective date of the One Month Notice was earlier than the effective date of the 10 Day Notice, I decided to first proceed with hearing the Cross Application for the reasons set out below:

- The audio issues at the start of the hearing prevented me from confirming service of the Proceeding Package and evidence for the Application to the Tenant
- Limited time remained for the hearing after the Tenant resolved the audio issues
- As the Tenant acknowledged rent had been withheld following issuance of the 10 Day Notice, I determined it was likely the outcome of the Cross Application would result in the tenancy ending and an Order of Possession being issued, which would make it unnecessary to hear the Landlord's Application for an Order of Possession based on the One Month Notice

Therefore, at the outset of the hearing, I determined that the Landlord's Application for an Order of Possession based on the One Month Notice was not sufficiently related to the Cross Application for cancellation of the 10 Day Notice to warrant the claims being heard together. I also determined that the Cross Application for cancellation of the 10 Day Notice was the primary issue before me.

Therefore, I exercise my discretion to dismiss the Landlord's claim for an Order of Possession based on a One Month Notice to End Tenancy for Cause under sections 47 and 55 of the Act, with leave to reapply.

Issues

Should the Landlord's 10 Day Notice be cancelled?

Is the Landlord entitled to an Order of Possession and a Monetary Order for unpaid rent?

Is the Tenant entitled to an order for the Landlord to provide services or facilities required by law?

Is the Tenant entitled to an order to suspend or set conditions on the Landlord's right to enter the rental unit and authorizing the Tenant to change the locks to the rental unit?

Is the Tenant entitled to an order requiring the Landlord to comply with the Act, regulation or tenancy agreement?

Background and Evidence

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

The parties agree that this tenancy began on February 15, 2025, with a monthly rent of \$800.00, due on the first day of the month. The Tenant paid a security deposit of \$400.00 on February 10, which is held in trust by the Landlord.

It is undisputed that the Landlord issued and served two 10 Day Notices to End Tenancy for Unpaid Rent in June 2025. The first 10 Day Notice, submitted into evidence by the Tenant, is dated June 4, 2025 (the First 10 Day Notice). The First 10 Day Notice is signed and dated by the Landlord, provides an effective date of June 13, 2025, and states unpaid rent of \$800.00 was due May 1 and June 1, for a total unpaid rent amount of \$1,600.00. The First 10 Day Notice provides the Landlord's name and phone number.

The second 10 Day Notice, also submitted into evidence by the Tenant, is dated June 10, 2025 (the Second 10 Day Notice). The Second 10 Day Notice is the same as the First 10 Day Notice, except that it is signed by the Landlord on June 10, provides an effective date of June 23, does not provide the Landlord's name and phone number, and removes a reference to a written demand for payment having been made in relation to unpaid utilities. The Second 10 Day Notice also states unpaid rent of \$800.00 was due on May 1 and June 1, for a total unpaid amount of \$1,600.00.

Agent and Interpreter for the Landlord, G.S.R. (the Landlord) testified that both 10 Day Notices were served to the Tenant by being posted to the door of the rental unit. The Landlord states the First 10 Day Notice was attached to the Tenant's door on June 4, 2025, and the Second 10 Day Notice was attached to the Tenant's door on June 10.

The Tenant's Cross Application disputing the 10 Day Notice was filed on June 9, 2025, and states the 10 Day Notice was attached to the door on June 4.

Agent for the Tenant, A.C. disputes that rent was not paid for May 2025, but agrees that no rent was paid for June or July. A.C. states that rent was withheld for those months because the Landlord:

- Restricted essential services such as heat, electricity, hot water, laundry, and a stove or hotplate for cooking

- Entered the rental unit and changed the locks without an Order of Possession, and would not provide the Tenant with a key to the rental unit

A.C. states that the rent for May 2025 was paid in cash, as with all previous rent payments, but that the Landlord did not provide a receipt for the cash payment.

The Landlord disagrees that the Tenant paid rent for May 2025, but admits there is no statement of account or record of payments documenting the rent payments received from the Tenant since the start of the tenancy. The Landlord testified that the Tenant began withholding rent after the Tenant was served with a One Month Notice to End Tenancy for Cause on April 21, 2025.

It is undisputed that the Tenant continues to live in the rental unit and that no rent payments have been made by the Tenant since the First 10 Day Notice was issued.

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.

When two parties to a dispute provide equally possible accounts of events or circumstances related to a dispute, the party making the claim must provide evidence over and above their testimony to prove their claim.

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

Section 46 of the Act states that upon receipt of a 10 Day Notice, a 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. If the tenant does 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) of the Act.

I accept the Landlord's testimony regarding service of the First 10 Day Notice as the Tenant's Cross Application states the 10 Day Notice was posted to the door of the rental unit on June 4, 2025. As the Cross Application was filed on June 9, before the Second 10 Day Notice was issued, I find that the 10 Day Notice before me in this proceeding is the First 10 Day Notice.

Based on the testimony of the parties, I am satisfied that the First 10 Day Notice was served to the Tenant in accordance with section 88(g) of the Act and that the Tenant received the First 10 Day Notice on June 4. Therefore, the Tenant had until June 9 to dispute the First 10 Day Notice or to pay the full amount of the arrears.

As the Cross Application was filed on June 9, 2025, the Tenant applied to dispute the First 10 Day Notice within the required five days. While the Tenant disagrees that May's

rent was owed when the First 10 Day Notice was issued, it is undisputed that the Tenant had not paid rent for June. It is also undisputed that the Tenant has not made any rent payments since receiving the First 10 Day Notice.

The Tenant's position, as explained by A.C., is that they withheld rent because the Landlord was not providing essential services and facilities required by the tenancy agreement and Act, and the Landlord had interfered with the Tenant's access to the rental unit. However, section 26 of the Act clearly states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this 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.

The only circumstances under which a tenant has a legal reason to withhold rent without first obtaining an order from the RTB permitting them to do so are as follows:

- A tenant paid too much for a security or pet damage deposit, in which case they may withhold the amount of the overpayment from rent
- A tenant paid for emergency repairs and has not been reimbursed by a landlord
- A tenant paid an illegal rent increase, in which case the tenant may deduct the increase from rent
- A tenant is applying one month's compensation to their last month's rent upon receipt of a notice to end tenancy for landlord's use of property

Despite the reasons given by the Tenant for withholding rent, none of those reasons fall under any of the above categories that would justify non-payment of rent. Therefore, in the absence of an order from the RTB permitting the Tenant to deduct any amounts from rent, I find the Tenant did not have a right to withhold rent and that they failed to pay their rent in the amount of \$800.00 by June 1, 2025, contrary to section 26 of the Act. Therefore, the Tenant's Application to cancel the First 10 Day Notice is dismissed, without leave to reapply.

Is the Landlord entitled to an Order of Possession and a Monetary Order for unpaid rent?

Section 55(1) of the Act states that if a tenant's application to cancel a notice to end tenancy is dismissed, the arbitrator must grant the landlord an order of possession if the notice complies with section 52 of the Act.

I have reviewed the First 10 Day Notice and find that, with the exception of the effective date, it complies with the form and content requirements of section 52 of the Act. Specifically, it is signed and dated by the Landlord, states the address of the rental unit, sets out the grounds for ending the tenancy, and it is in the approved form (#RTB-30).

Sections 53(1) and (2) of the Act provide that where a notice to end tenancy provides an effective date that does not comply with the Act, the notice is deemed to be changed to the earliest date that does comply with the Act.

In accordance with section 53 of the Act, I therefore correct the effective date of the First 10 Day Notice to June 17, 2025, being ten days after it would have been deemed served to the Tenant after it was posted to the door on June 4.

During the hearing, M.C. stated the 10 Day Notice had not been completed correctly because the Landlord did not insert his name and phone number in the middle of the first page of the form. M.C. also raised concerns regarding the validity of both 10 Day Notices because they each have a check mark at the top of the form indicating the notices apply to both the Act and the *Manufactured Home Park Tenancy Act* (MHPTA).

With regards to the Landlord's name and phone number not being included in the form, I find this was only the case for the Second 10 Day Notice. The First 10 Day Notice, which I have found to be the 10 Day Notice at issue in these proceedings, contained the required information.

With regards to both the Act and the MHPTA being selected at the top of the First 10 Day Notice, section 10(2) of the Act provides that deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used. I am satisfied that the Landlord incorrectly selecting that the 10 Day Notice applies to both the Act and the MHPTA was not intended to mislead the Tenant and does not affect the substance of the 10 Day Notice. Therefore, I do not find that this error invalidates the First 10 Day Notice.

For the reasons set out above, I find that the First 10 Day Notice complies with section 52 of the Act. Therefore, the Landlord is entitled to an Order of Possession based on the 10 Day Notice under section 55(1) of the Act.

Section 55(1.1) of the Act provides that where a tenant's application to cancel a notice to end tenancy for unpaid rent is dismissed and the notice complies with section 52, the landlord must be granted a monetary order for unpaid rent.

While I have found that the 10 Day Notice complies with section 52 of the Act, in the absence of any documentary evidence recording rent payments received or not received from the Tenant, I find that the Landlord has failed to provide evidence over and above their testimony to prove that the Tenant did not pay rent for May 2025.

Under section 26(2) of the Act, a landlord is required to provide a tenant with a receipt for rent paid in cash.

While the Landlord argued that the Tenant had failed to provide any evidence of the May 2025 rent payment being made, such as an e-Transfer record, I accept A.C.'s testimony that the Tenant had always paid her rent in cash as this was not disputed by

the Landlord. I further find that the Tenant's allegation that the Landlord did not provide receipts for rent payments made during the tenancy was corroborated by the Landlord's admission that no formal records of rent payments are kept.

For the reasons set out above, I find it would be improper to place the onus on the Tenant to provide a copy of a rent receipt when the Landlord failed to issue receipts for rent payments made in cash, contrary to section 26(2) of the Act.

As it is undisputed that the Tenant did not pay rent for either June or July 2025, I find that the Tenant is in arrears of \$1,600.00 for those months. Therefore, I find the Landlord is entitled to a monetary award for unpaid rent in the amount of \$1,600.00 (\$800.00 x 2).

Under section 72(2)(b) of the Act, I allow the Landlord to retain the Tenant's security deposit of \$400.00, plus interest of \$1.56, in partial satisfaction of the monetary award.

Is the Tenant entitled to an order for the Landlord to provide services or facilities required by law?

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

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

Is the Tenant entitled to an order to suspend or set conditions on the Landlord's right to enter the rental unit and authorizing the Tenant to change the locks to the rental unit?

As I have found that this tenancy is ending, I find it is not necessary to analyze the Tenant's Application for an order suspending or setting conditions on the Landlord's right to enter the rental unit or for authorization to change the locks to the rental unit. Therefore, under Rule 6.2 of the RTB Rules of Procedure, I dismiss these portions of the Tenant's Cross Application.

The Tenant's Cross Applications under sections 70(1) and 70(2) of the Act to suspend or set conditions on the Landlord's right to enter the rental unit and for authorization to change the locks to the rental unit are both dismissed, without leave to reapply.

Is the Tenant entitled to an order requiring the Landlord to comply with the Act, regulation or tenancy agreement?

As I have found that this tenancy is ending, I find it is not necessary to analyze the Tenant's Application for an order requiring the Landlord to comply with the Act,

regulation or tenancy agreement under section 62 of the Act. Therefore, under Rule 6.2 of the RTB Rules of Procedure, I dismiss this portion of the Tenant's Cross Application

The Tenant's application for an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act is dismissed, without leave to reapply.

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

As it was not necessary to consider the Landlord's Application for an Order of Possession based on the One Month Notice and the Landlord's Application was dismissed, I deny the Landlord's request to recover the \$100.00 filing fee paid for the Application from the Tenant under section 72 of the Act.

Conclusion

I grant an Order of Possession to the Landlord **effective seven (7) days after service of this Order on the Tenant**. Should the Tenant 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 **\$1,198.44** under the following terms:

Monetary Issue	Granted Amount
A Monetary Order for unpaid rent under section 67 of the Act	\$1,600.00
Authorization to retain all of the Tenant's security deposit in partial satisfaction of the Monetary Order under section 72 of the Act	-\$400.00
Amount of interest owed on security deposit from February 10, 2025 to the date of this Order	-\$1.56
Total Amount	\$1,198.44

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

The Landlord's Application to recover the filing fee paid for the Application from the Tenant under section 72 of the Act is dismissed, without leave to reapply.

The Tenant's Cross 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: July 9, 2025

Residential Tenancy Branch