



DECISION

Introduction

This hearing dealt with two applications pursuant to the Residential Tenancy Act (Act). The Tenant's application for:

- cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) and an extension of the time limit to dispute the 10 Day Notice under sections 46 and 66 of the Act
- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act

And the Landlord's application for:

- an order of possession of the rental unit pursuant to the 10 Day Notice
- a monetary order for unpaid rent
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

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

No service issues arose except for the late evidence submitted by the Tenant, dated July 3, 2025, and July 4, 2025, which was excluded in full as I was not satisfied on service of this documentation in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules).

Preliminary Matters

Preliminary Matter – Amended Name

Although occupant JS (JS) was named as a respondent on the Landlord's application for dispute resolution, upon review of the Tenancy Agreement (TA) and the 10 Day Notice, I find Tenant ED is the tenant for the dispute before me. Further, the application

for dispute resolution for the cancellation of the 10 Day Notice named the Tenant as the only applicant.

Based on the above and as per RTB Rules Rule 7.12, I amended the Landlord's application and removed JS from the Landlord's application for dispute resolution.

Preliminary Matter – Severed Monetary Claim

In review of the Tenant's application for dispute resolution, the following issue was severed and dismissed with leave to reapply:

- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act

RTB Rules Rule 6.2 states that if during 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 before me is the primary issue of the 10 Day Notice, and I exercise my discretion to sever and dismiss with leave to reapply the Tenant's monetary claim for compensation. Leave to reapply is not an extension of any applicable time limit.

Further, Section 19(2) states:

- If a landlord accepts a security deposit or a pet damage deposit that is greater than the amount permitted under subsection (1) of section 19, the tenant may deduct the overpayment from rent or otherwise recover the overpayment.

At the hearing, the clarification provided by the Tenant, was consistent with their application for dispute resolution, that the Tenant was seeking reimbursement of the overpayment, and had not deducted nor requested the Landlord deduct from the unpaid rent the amount of the any overpaid deposits.

Therefore, i find it is appropriate to sever this issue. The Tenant is at liberty to file an application seeking any overpaid deposits from the Landlord in the event the Landlord fails to timely reimburse the amount of any overpaid deposits.

Issues to be Decided

Is the Tenant entitled to more time to cancel the Landlord's 10 Day Notice? 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?

Is the Landlord entitled to recover the cost of the filing fee?

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.

Both parties agreed that this tenancy began on March 13, 2024. The monthly rent of \$2,550.00 is due on the first day of each month.

Agent MM (MM) for the Landlord testified that the Tenant paid a security deposit in the amount of \$1,275.00 and a pet damage deposit in the amount of \$1,275.00, for the total deposits of 2,550.00.

The Tenant testified that they paid a security deposit and pet damage deposit in the total amount of \$5,050.00. The Tenant stated that they paid the amount of \$2,550.00 at the start of the tenancy. The Tenant stated that additional payment of deposits were made as follows by the Ministry of Social Development and Poverty Reduction (the Ministry):

- July 2024 - The Ministry provided financial support with two payments of \$500.00 each, in July 2024 for JS' contribution towards deposits
- July 2024 - The Ministry provided financial support with two payments of \$750.00 each, in July 2024 for the Tenant's contribution towards deposits

On June 2, 2025, the Landlord served to the Tenant the 10 Day Notice. The 10 Day Notice was submitted in evidence. The 10 Day Notice dated June 2, 2025, has the effective date of June 13, 2025. The 10 Day Notice indicates failure to pay rent of \$1,000.00 due on June 1, 2025.

The Tenant stated that the 10 Day Notice was emailed to them, and was delivered in person to JS. The Landlord stated that the 10 Day Notice was served in person.

MM testified that on June 1, 2025, the Tenant paid partial rent of \$1,550.00. MM testified that the Tenant failed to pay rent of \$1,000.00 due on June 1, 2025, as listed on the 10 Day Notice. Thereafter, the Tenant paid full rent of \$2,550.00 due on July 1, 2025. The amount of \$1,000.00 remains outstanding.

MM stated that the Landlord is seeking a monetary order of \$1,000.00 for unpaid rent, and the cost of the filing fee in the amount of \$100.00. MM clarified that they erred by making a duplicate claim for the return of the filing fee.

The Tenant testified that since August 2024, they were responsible for monthly rent of \$1,550.00 and JS was responsible for the monthly rent of \$1,000.00, the latter was paid by way of a third party payment from the Ministry. The Tenant stated that on June 2, 2025, the Ministry issued a cheque of \$1,000.00, confirmation of which they submitted in evidence.

The Tenant stated that perhaps the Landlord did not receive the cheque due to the Canada Post strike, or perhaps they chose not to deposit the cheque.

MM testified that the Landlord consistently received the amount of \$1,000.00 from the Ministry, but there was no such payment for June 1, 2025. MM confirmed that they received the cheque from the Ministry for rent due on July 1, 2025.

MM stated that on June 5, 2025, the Landlord contacted the Ministry, however, they were not given information about this issue due to confidentiality reasons.

The Tenant stated that they also called the Ministry and were not given information given the Ministry file was in JS's name.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, which is more likely than not, I find the following.

**Is the Tenant entitled to more time to cancel the Landlord's 10 Day Notice?
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. 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).

I find that the 10 Day Notice was duly served to the Tenant on June 2, 2025, as acknowledged by the Tenant. I find that the Tenant had until June 7, 2025, to dispute the 10 Day Notice or to pay the full amount of the arrears. The Tenant filed their application for dispute resolution on June 8, 2025, one day late after the required time limit.

The Tenant has applied for dispute resolution requesting more time to cancel a notice to end tenancy. Section 66 of the Act states that the director may extend a time limit established by the Act only in exceptional circumstances. The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end tenancy beyond the effective date of the notice.

I find the Tenant presented sufficient documentary evidence, specifically a medical note supporting procedural accommodation dated June 9, 2025, which outlines and supports the reasons for more time to cancel the 10 Day Notice. Based on the testimony and evidence before me, and as per Section 66 of the Act, I grant the Tenant's application for dispute resolution requesting more time to cancel the 10 Day Notice.

Next, are my findings with respect to the 10 Day Notice and an order of possession based on the 10 Day Notice.

Although the Tenant relies on the Ministry confirmation of payment to prove that the amount of \$1,000.00 was paid on May 21, 2025, I do not accept this as confirmation of payment for the following reasons:

Firstly, although I accept that Ministry monthly payments of \$1,000.00 were made by the Ministry directly to the Landlord, I find in this case there was the issue of non-payment, which was noted by the Landlord. In response, the Landlord communicated the issue to the Tenant and served to the Tenant the 10 Day Notice.

The Landlord's documentary evidence shows that in the first week of June 2025 they contacted their financial institution and asked for them to investigate for the deposit of the cheque in the amount of \$1,000.00. The evidence shows that the Landlord indicated their concern for non-payment of rent and that the Tenant was not co-operative in resolving this issue. The Landlord contacted the Ministry and did not receive a response due to the privacy reasons. The financial institution provided confirmation that the cheque of \$1,000.00 was not deposited to the Landlord's account.

Further, on June 9, 2025, the Landlord communicated to the Tenant their concern for non-payment of rent, with the suggestion to meet at the Ministry office to resolve the issue of unpaid rent. The email communicated dated June 9, 2025, was submitted in evidence.

Although the parties agreed that monthly payment of rent of \$1,000.00 was paid through Ministry assistance for JS, before me is the situation of unpaid rent and the requirement for the Tenant to pay rent as per the Tenancy Agreement and the Act. JS did not attend the hearing to provide testimony on the matter before me.

I find the Tenant failed to pay rent of \$1,000.00 due on June 1, 2025. I find it was the Tenant's responsibility to pay monthly rent in full as required by the Act and TA, and to address the issue of unpaid rent with JS. If the Tenant contacted the Ministry and were denied information, I find it was still the Tenant's responsibility to take action as noted above, as the Landlord is entitled to the payment of rent as required by the Act and TA. I find the Tenant breached section 26 of the Act when they failed to pay rent, and they did not demonstrate a lawful reason to withhold rent.

I find the Landlord had reason to serve to the Tenant 10 Day Notice. Further, I find the Tenant had sufficient time since the date they received the 10 Day Notice on June 2, 2025, to the date of this hearing to resolve the issue of unpaid rent.

Based on the above, I dismiss the Tenant's application for cancellation of the Landlord's 10 Day Notice under section 46 of the Act.

Section 55(1) of the Act states that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must grant the landlord an order of possession if the notice complies with section 52 of the Act. I find that the Notice complies with section 52 of the Act.

Therefore, I find that the Landlord is entitled to an Order of Possession.

Upon consideration of the circumstances before me and as per Residential Tenancy Policy Guideline 54, I grant an Order of Possession with the effective date of July 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 makes an application to set aside a landlord's notice to end a tenancy under section 46 of the Act for non-payment of rent, and the application 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 noted earlier in this decision, I find the 10 Day Notice complies with section 52 of the Act.

I find the Landlord is entitled to a Monetary Order for unpaid rent in the amount of \$1,000.00.

Is the Landlord entitled to recover the cost of the filing fee?

As the Landlord was successful in their application, I grant the Landlord the \$100.00 filing fee paid for this application under section 72 of the Act. I declined to award the duplicate claim of \$100.00 made in error by the Landlord.

Conclusion

I grant an Order of Possession to the Landlord **effective on July 31, 2025, 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 **\$1,100.00** for unpaid rent under section 55 of the Act and for the cost of the filing fee.

The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** to be enforceable. 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).

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 16, 2025

Residential Tenancy Branch