

## **DECISION**

### **Introduction**

This hearing dealt with the Landlord's 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 under section 67 of the Act

and the Tenant's Application for Dispute Resolution under 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
- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 60 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 make repairs to the rental unit under sections 32 and 62 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 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 confirmed having received the Proceeding Package and evidence from the Landlord in person on June 27, 2025. The Tenant confirmed having received additional evidence in their mailbox on July 8, 2025. I find that the Tenant was served with the Proceeding Package and evidence in accordance with sections 88 and 89(2) of the Act.

The Landlord confirmed having received the Proceeding Package and evidence from the Tenant in person on June 30, 2025. I find that the Landlord was served with the Proceeding Package and evidence in accordance with sections 88 and 89(1) of the Act.

## Preliminary Matters

The following issues are dismissed with leave to reapply:

- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 60 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 make repairs to the rental unit under sections 32 and 62 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 requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

Rule 2.3 of the *Residential Tenancy Branch Rules of Procedure* (Rules of Procedure) states that claims made in the application must be related to each other.

Rule 6.2 of the Rules of Procedure 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.

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

Is the Landlord entitled to an Order of Possession based on the 10 Day Notice?

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

## 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.**

The Landlord submitted a copy of a signed tenancy agreement dated March 12, 2024, establishing a fixed term tenancy beginning May 1, 2024, and ending April 31, 2029. The monthly rent as stated on the tenancy agreement is \$1,500.00 due on the first of the month, which includes all utilities. The tenancy agreement requires a security

deposit in the amount of \$1,500.00 be paid by May 1, 2024, but the parties agree that the Tenant paid only \$750.00 as permitted by the Act and that this amount was received by the Landlord on April 20, 2024.

The parties agree that the Tenant occupied the rental unit before the tenancy began on May 1, 2024. The parties are mother and son, and the Landlord purchased the rental unit in part intending for her son and his family to occupy it. The parties agree that there were back and forth negotiations with respect to the terms of the tenancy agreement, to satisfy the requirements of the lender for the purchase of the rental unit.

An unsigned copy of a previous iteration of the tenancy agreement was submitted in evidence by the Tenant which established rent in the amount of \$1,000.00 due on the first day of the month, but that utilities were excluded from monthly rent.

The Tenant agrees that the tenancy is ultimately governed by the signed and dated tenancy agreement outlined above.

The parties agree that the Landlord did not receive rent in any amount for the months of May, June, and July 2024.

The parties disagree as to whether rent was payable during this period. This was a financial hardship for the Landlord. The Tenant said in his affirmed testimony that when he moved to the rental unit he was not in a position to make rent payments in any amount and that this was known to the Landlord.

The Tenant submitted a copy of an email exchange between the Tenant's then partner "K.V.", and the Landlord dated August 13, 2024. The Landlord says in part:

I think that your plan for 3 x \$500/month payments makes sense, over the long term. I would like to start that in January 2025.

It also makes sense to leave all of the paperwork and accounts as they are for now to avoid further expenses.

In the meantime, I am willing to settle for 2 x \$500/month payments, as long as they begin right away. I will need to know what the dates will be in order to deal with my finances.

I think that this compromise would help us all to get our feet under us so we can prepare for winter and a better new year.

K.V. replied on August 15, 2024, saying in part:

So rent starts immediately, and you want to do the 2 payments of \$500/month, until January 2025, at which time we switch to 3 payments of \$500/month?

If that is the case, here is my proposed schedule of payments and dates for the rest of 2024, so you can budget your finances.

K.V. outlined a schedule of payments which included total payments of \$500.00 for the month of August 2024, and \$1000.00 per month for the subsequent months of 2024.

The Landlord replied on August 15, 2024, saying "Yes, this works for me".

The parties agree that the Tenant completed the discounted monthly payments per the schedule and returned to full payment of the \$1,500.00 rent beginning January 2025.

The Landlord maintains that she agreed to discount the rent to \$1,000.00 per month for the months of August through December 2024, but that she did not waive arrears for the months of May, June, and July 2024.

The Tenant relies on the above email in their understanding that rent payments would begin in August 2024, in the amounts outlined in the schedule and that they would not be responsible for previous arrears.

A domestic dispute arose between the Tenant and K.V. in early 2025, following which the Tenant was not permitted to return to the rental unit. K.V. and the children remained in the rental unit, and on March 22, 2025, the Landlord wrote a letter to the Tenant which enclosed a statement of arrears. The Landlord demanded payment for unpaid rent for the months of May, June, and July 2024, in the amount of \$1,500.00 per month and \$1,000.00 for August 2024.

The letter says in part, "One year ago you assured me that you would be able to pay the rent every month". Further, the letters says:

Then you, [A.H.] cut off all communication with me, when I asked you to pay up in May. Then, I patiently waited until August, one month to 5 weeks after [K.V.] found a job before requesting payment of the \$1500.month that was laid out in the rental agreement. I offered you a 4 month rent reduction of \$500/month and agreed to payment schedule to be initiated immediately, to help your family "get back on your feet".

The Tenant did not pay these amounts to the Landlord.

The parties agree that the Tenant failed to pay rent in any amount for May and June 2025.

The Landlord issued the 10 Day Notice dated June 2, 2025, with an effective date of June 12, 2025. The 10 Day Notice says that the Tenant failed to pay \$8,500.00 as of June 1, 2025.

The Landlord submitted a Proof of Service document signed by a witness which says that the Landlord left a copy of the 10 Day Notice in the mailbox of the rental unit on June 2, 2025.

The parties agree that K.V. and the children had vacated the rental unit by this time and that the Tenant was prevented from attending at the rental unit because of release conditions. The Tenant retained exclusive possession of the rental unit during this period, they had a key to the rental unit, and their belongings remained in the rental unit.

The Tenant said in their affirmed testimony that they received the 10 Day Notice on June 22, 2025, from a neighbour who attended to collect their mail.

The Tenant applied to dispute the 10 Day Notice on June 26, 2025.

The Tenant was ultimately permitted to return to the rental unit and presently occupies the rental unit as of the date of the hearing. The parties agree that the Tenant failed to pay rent in any amount for July 2025, as of the date of the hearing.

## **Analysis**

Rule 6.6 of the Rules of Procedure states that 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. The onus to prove their case is on the person making the claim.

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

### **Is the Landlord entitled to an Order of Possession based on the 10 Day Notice?**

Section 26 of the Act states that a tenant must pay 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 the Act to deduct all or a portion of the rent.

The Tenant did not assert a right under the Act to withhold rent.

Section 46 of the Act states that a Landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than 10 days after the Tenant receives the notice. 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.

While I accept that the Landlord attended at the rental unit with a witness on June 2, 2025, and left a copy of the 10 Day Notice in the mailbox on that date, I find that because of barriers for the Tenant in attending at the rental unit that they did not receive the 10 Day Notice until June 22, 2025, when their mail was provided to them by their neighbour. The Tenant applied to dispute the 10 Day Notice on June 26, 2024, four days after it was received.

The Tenant disputes this notice because they believe the arrears to be inflated, and that the 10 Day Notice includes arrears that were previously waived by the Landlord. The Tenant agrees that they failed to pay rent for May, June, and July 2025, though they attribute that in part to the conduct of the Landlord and their demands for past arrears.

I find on a balance of probabilities, that the Landlord did not expressly waive the arrears for May, June, and July 2024. I find that the Landlord was flexible with payment and discounted the monthly rent effective August 1 to December 31, 2024, to maintain the tenancy and to prevent their own financial hardship but that their right to demand the arrears remained.

Further, I find that the Tenant failed to pay their rent for the months of May, June, and July 2025.

For the above reasons, the Tenant's application 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 is dismissed, without leave to reapply.

I find that the Landlord is entitled to 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.

Residential Tenancy Policy Guideline 54 says that an application for dispute resolution relating to a notice to end tenancy may be heard after the effective date set out on the notice to end tenancy. Effective dates for order of possession in these circumstances have generally been set for seven days after the order is received, though there are many factors an arbitrator may consider when determining the effective date of an order of possession including evidence of a chronic health condition that limits mobility and whether children live in the home. As the Tenant has both a chronic health condition and young children, I order possession of the rental unit effective August 31, 2025, at 1:00 pm.

Rent in the amount of \$1,500.00 remains payable under the tenancy agreement on the first day of the month until the tenancy ends, for the rental period August 1 to 31, 2025.

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

Based on the evidence before me, I find that the Landlord has established a claim for unpaid rent owing in the total amount of \$9,500.00. This represents \$1,500.00 per

month owing for the months of May, June, and July 2024, and May, June, and July 2025, as well as \$500.00 owing for the month of August 2024, in which the Tenant paid a total of \$500.00 in two payments on August 15 and 20, 2024, but the Landlord had agreed to a discounted payment in the amount of \$1,000.00 for that month.

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 Order for unpaid rent under section 67 of the Act, in the amount of \$9,500.00.

## Conclusion

I grant an Order of Possession to the Landlord **effective by 1:00 PM on August 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 **\$9,500.00** under the following terms:

| Monetary Issue   | Granted Amount    |
|--|-------------------|
| a Monetary Order for unpaid rent under section 67 of the Act | \$9,500.00        |
| <b>Total Amount</b>  | <b>\$9,500.00</b> |

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 Tenant's application 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 is dismissed, without leave to reapply.

With the consent of the parties, I order that future service of documents related to this tenancy may be by email to the email addresses identified on the cover page of this decision, in accordance with section 71(1) of the Act.

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 23, 2025

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Residential Tenancy Branch