



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This participatory hearing was convened after the issuance of a September 08, 2017, interim decision. The Adjudicator determined that the landlord's application could not be considered by way of the Residential Tenancy Branch's (RTB) direct request proceeding, as had been originally requested.

The Adjudicator reconvened the landlord's application to a participatory hearing for the following:

- an Order of Possession for unpaid rent pursuant to sections 46 and 55; and
- a monetary order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing, although I waited until 9:43 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agent (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that a copy of the notice of this reconvened hearing and an evidentiary package was sent to the tenant by way of registered mail on September 14, 2017. The landlord provided a copy of the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed served with the Application and evidentiary package on September 19, 2017, the fifth day after its registered mailing.

The landlord also gave witnessed documentary evidence that he personally handed a copy of the Landlord's Application for Dispute Resolution (the Application), which was a part of the direct request proceeding package, to an adult who resides with the tenant on September 03, 2017. In accordance with section 88 of the *Act*, I find the tenant was duly served with the Application and direct request proceeding package on September 03, 2017.

The landlord gave undisputed affirmed testimony that a 10 Day Notice to End Tenancy (the 10 day Notice) was personally handed to an adult who resides with the tenant on July 25, 2017. In accordance with section 88 of the *Act*, I find the 10 Day Notice was duly served to the tenant on July 25, 2017.

At the outset of the hearing the landlord testified that the tenant vacated the rental unit in the first week of October 2017. The landlord requested to withdraw their application for an Order of Possession.

The landlord's application for an Order of Possession is withdrawn.

#### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

#### Background and Evidence

The landlord gave written evidence that this tenancy began on October 01, 2016, with a monthly rent of \$1,950.00, due on the first day of each month. The landlord testified that they continue to retain a \$1,000.00 security deposit.

A copy of the signed 10 Day Notice identifying \$1,950.00 in rent owing for this tenancy, dated July 25, 2017, with an effective date of August 07, 2017, was included in the landlord's evidence.

The landlord gave undisputed affirmed testimony that the tenant paid \$1,800.00 towards the July 2017 monthly rent and paid the monthly rent in full for August 2017 and September 2017. The landlord testified that they are only seeking the unpaid monthly rent for May 2017, in the amount of \$1,950.00, and the balance of the unpaid rent for July 2017, in the amount of \$150.00, for a total monetary claim of \$2,100.00.

#### Analysis

Section 26 of the *Act* requires a tenant to pay rent to the landlord, regardless of whether the landlord complies with the *Act*, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the *Act*.

Section 67 of the *Act* establishes 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.

Based on the undisputed written evidence and affirmed testimony of the landlord, I find the landlord is entitled to a monetary award of \$2,100.00, for unpaid rent owing for this tenancy for May 2017 and July 2017.

Although the landlord's application does not seek to retain the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

### Conclusion

I grant a monetary Order in the landlord's favour under the following terms, which allows the landlords to recover unpaid rent and to retain the tenant's security deposit:

<b>Item</b>	<b>Amount</b>
Unpaid May 2017 Rent	\$1,950.00
Balance of Unpaid July 2017 Rent	150.00
Less Security Deposit	-1,000.00
<b>Total Monetary Order</b>	<b>\$1,100.00</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that 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 *Residential Tenancy Act*.

Dated: October 26, 2017

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Residential Tenancy Branch