



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      Landlord – OPRM-DR, FFL  
                             Tenant – CNR, FFT

### Introduction

This hearing dealt with an application by both parties pursuant to the *Residential Tenancy Act* ("Act").

The landlord sought:

- an Order of Possession for unpaid rent pursuant to sections 46 and 55;
- a monetary order for unpaid rent pursuant to section 67; and  
authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant sought:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:32 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. 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 the Landlord's Application for Dispute Resolution (the Landlord's Application), was sent to the tenant by way of registered mail on October 22, 2017 and their evidentiary package was sent to the tenant on November 25, 2017, in the same manner. The landlord provided copies of the Canada Post Tracking Numbers to confirm these registered mailings. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was deemed served with the Landlord's Application on October 27, 2017 and deemed served with the evidentiary package on November 30, 2017, five days after their mailing.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession for unpaid rent?

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

Is the landlord entitled to recover the filing fee for this application from the tenant?

#### Background and Evidence

The landlord gave written evidence that this tenancy began on April 01, 2017, with a monthly rent of \$1,100.00, due on the first day of the month. The landlord testified that they continue to retain a security deposit in the amount of \$550.00.

The landlord testified that the tenant vacated the rental unit in October 2017. The landlord stated that they are only seeking the unpaid rent for October 2017 in the amount of \$1,100.00.

#### Analysis

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

**Commencement of the hearing** - The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

**In the absence of any evidence or submissions from the tenant, I order the Tenant's Application for Dispute Resolution (Tenants' Application) dismissed, without liberty to reapply.**

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a notice to end tenancy, the landlord is entitled to an order of possession if the notice meets the requirements of section 52 of the *Act*. The landlord testified that the tenant has vacated the rental unit and they do not require an Order of Possession.

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 written evidence and undisputed affirmed testimony, I find that the landlord is entitled to a monetary award of \$1,100.00 for unpaid rent owing for this tenancy for October 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. As the landlord has been successful in this application, I also allow them to recover their filing fee from the tenant.

### Conclusion

I dismiss the Tenant's Application in its entirety, without leave to reapply.

Pursuant to section 67 of the *Act*, I grant a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, to retain the tenant's security deposit and to recover the filing fee:

Item	Amount
Unpaid October 2017 Rent	\$1,100.00
Less Security Deposit	-550.00
Filing Fee for this application	100.00
<b>Total Monetary Order</b>	<b>\$650.00</b>

The landlord is provided with this Order in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order 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: December 20, 2017

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Residential Tenancy Branch