



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, MNDCT  
OPRM-DR, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant (the "Tenant's Application") under the *Residential Tenancy Act* (the "*Act*"), seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") and a Monetary Order in the amount of \$3,200.00 for money owed or compensation for damage or loss under the *Act*, regulation, or tenancy agreement. The Tenant's monetary claim was originally set for hearing on February 7, 2018, with a different arbitrator. In that hearing the parties settled several other matters, and without being seized of the monetary claim, the arbitrator adjourned the Tenant's Application for a Monetary Order for money owed or compensation for damage or loss under the *Act*, regulation, or tenancy agreement to be heard at the same time as the Landlord's Application, which was set for hearing before me on March 1, 2018, at 11:00 A.M.

As a result, this hearing also dealt with a cross-application filed by the Landlord (the "Landlord's Application") under the *Residential Tenancy Act* (the "*Act*"), seeking an Order of Possession and a Monetary Order for unpaid rent and the recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord (the "Agent"), who provided affirmed testimony. The Tenant did not attend. As the Agent was present and prepared to proceed, the hearing proceeded based on the Landlord's Application. The Agent was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Landlord testified that as part of the settlement agreement reached on February 7, 2018, the Tenant agreed that their \$3,200.00 monetary claim would be heard on March 1, 2018, at 11:00 A.M. along with the Landlord's Application seeking an Order of Possession and a Monetary Order for rent and recovery of the filing fee. As copy of the settlement decision matching the testimony provided by the Landlord forms

part of the file before me for consideration, I find that the Tenant was aware of the date and time of the hearing and the matters to be heard. In any event, as the Tenant's own Application was set to be heard at the same time, I find that the Tenant was well aware of the date and time of the hearing.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure"). However, I refer only to the relevant facts and issues in this decision. At the request of the Agent, copies of the decision and any orders issued in favor of the Landlord will be e-mailed to the Agent at the e-mail address provided in the hearing.

### Preliminary Matters

At the outset of the hearing the Agent testified that the Tenant vacated the rental unit on February 15, 2018, and therefore withdrew the Application for an Order of Possession.

### Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order for rent and recovery of the filing fee pursuant to sections 67 and 72 of the *Act*?

### Background and Evidence

The tenancy agreement in the documentary evidence before me indicates that the one year fixed-term tenancy, which commenced June 1, 2017, has an end date of May 31, 2018. The tenancy agreement states that rent in the amount of \$1,525.00 is due on the first day of each month, and that at the end of the fixed-term, the tenancy may continue on a month-to-month basis. Section 12 of the tenancy agreement also allows the Landlord to charge a \$25.00 fee for the late payment of rent.

The Agent testified that the Tenant moved out February 15, 2017, and that as of the date of the hearing, the Tenant owes \$5,825.00 in outstanding rent and late fees for November 2017 – February 2018. The Agent testified that they were able to re-rent the unit for March 2018, and therefore the Landlord is not seeking any rent for March, 2018.

The Tenant did not attend the hearing to provide any testimony or evidence in relation to their Application or the Application of the Landlord.

### Analysis

As the Tenant did not attend the hearing to provide any evidence or testimony, their Application seeking cancellation of the 10 Day Notice and a Monetary Order in the amount of \$3,200.00 is dismissed without leave to reapply.

I accept the Agent's undisputed testimony that as of the date the Tenant vacated the rental unit, rent and late fees in the amount of \$5,825.00 remained unpaid. Pursuant to section 67 and 72 of the *Act*, the Landlord is therefore entitled to a Monetary Order in the amount of \$5,925.00 for outstanding rent, late fees, and recovery of the \$100.00 filing fee.

### Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$5,925.00. 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 in the Small Claims Division of the Provincial Court and enforced as an Order 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: March 19, 2018

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Residential Tenancy Branch