



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “*Act*”) for an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), for a Monetary Order for unpaid rent and for the recovery of the filing fee paid for this application.

The Application for Dispute Resolution was initially filed under the Direct Request process. However, the application was scheduled for a participatory hearing as a Proof of Service document was not submitted as required for the Direct Request process.

The Landlord was present for the teleconference hearing while no one called in for the Tenant during the approximately 12-minute duration of the hearing. The Landlord was affirmed to be truthful in his testimony. He stated that the Notice of Dispute Resolution Proceeding package and a copy of his evidence was sent to the Tenant by registered mail and was returned to him as unclaimed.

The Landlord provided the registered mail tracking number which is included on the front page of this decision. Despite the registered mail being unclaimed, I find that the Tenant was duly served in accordance with Sections 88 and 89 of the *Act*. I also note that failure to claim mail is not a ground for review under the *Act*.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matters

At the outset of the hearing the Landlord confirmed that the Tenant moved out of the rental unit on December 6, 2018. The Landlord stated that he had possession of the rental unit back and therefore was no longer seeking an Order of Possession. As such, the Landlord's application proceeded based on the monetary claims only.

The address of the rental unit was stated as the same address as the Landlord on the Application for Dispute Resolution. This was clarified with the Landlord during the hearing and he confirmed that the Tenant resided in the lower level rental unit of the Landlord's home. As such, the dispute address was amended on the application to add "basement" to the address.

These amendments were made pursuant to Section 64(3)(c) of the *Act*.

Issues to be Decided

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

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlord provided undisputed testimony regarding the tenancy. The tenancy began on September 15, 2018 and ended on December 6, 2018. Monthly rent in the amount of \$1,250.00 was due on the 15th day of each month. A security deposit of \$600.00 was paid at the outset of the tenancy. The tenancy agreement was submitted into evidence and confirms the details as stated by the Landlord.

On November 16, 2018 the Landlord served the Tenant with a 10 Day Notice by posting it on his door. The Landlord submitted photos of the notice posted on the door. The 10 Day Notice was submitted into evidence and states that \$1,250.00 in rent was unpaid as due on November 15, 2018. The effective end of tenancy date was stated as November 26, 2018.

The Landlord testified that he has not received any money towards the outstanding rent and is therefore still owed the full amount of \$1,250.00. The Landlord is still in possession of the security deposit amount of \$600.00.

Analysis

I accept the undisputed testimony of the Landlord that rent due on November 15, 2018 was unpaid in the amount of \$1,250.00. I find the tenancy agreement to be evidence that rent of \$1,250.00 was due on the 15th day of each month.

I also find the 10 Day Notice dated November 16, 2018 to be evidence that rent was not paid as due on November 15, 2018. I have no evidence before me that the Tenant applied to dispute the 10 Day Notice and I accept the undisputed testimony of the Landlord that no partial payments towards the rent owing were made.

As such, in accordance with Section 67 of the *Act*, I find that the Landlord is entitled to compensation in the amount of \$1,250.00.

Pursuant to Section 38(4)(b) of the *Act*, the Landlord may retain the security deposit towards the rent owing.

Section 72 of the *Act* allows me to award the recovery of the filing fee to the party that filed the Application for Dispute Resolution. As the Landlord was successful in his application I find that he is entitled to the recovery of this fee in the amount of \$100.00.

Therefore, the Landlord is awarded a Monetary Order in the amount outlined below:

November 15 – December 15, 2018 rent	\$1,250.00
Recovery of filing fee	\$100.00
<i>Less security deposit</i>	<i>(\$600.00)</i>
Total owing to Landlord	\$750.00

Conclusion

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$750.00** for rent owed as due on November 15, 2018 and for the recovery of the filing fee paid for the Application for Dispute Resolution. 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: January 11, 2019

Residential Tenancy Branch