



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF, CNR, CNC, CNL

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenants' applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided testimony.

Preliminary Issue(s)

At the outset, the applications filed were clarified by both parties. Both parties confirmed that the landlord had received an order of possession as a result of a previous Residential Tenancy Branch Dispute Resolution Hearing. As such, the tenant stated that she is in the process of packing and moving. The tenant stated that she now wishes to cancel her application as a result. No further action is required for the tenant's application.

The landlords stated that the tenant was served with the notice of hearing package and the submitted documentary evidence in person on May 10, 2019. The tenant confirmed receipt of this package and its contents. No documentary evidence was submitted by the tenant. Neither party raised any service issues. As such, I find that both parties have been sufficiently served as per section 90 of the Act.

As possession is no longer an issue, the landlord wishes to cancel their request for an order of possession and proceed on the monetary claim for unpaid rent. The landlord clarified that since the 10 Day Notice was served the landlord seeks claim for unpaid rent of \$2,200.00 and recovery of the \$100.00 filing fee as opposed to the original unpaid rent claim of \$1,100.00.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

This tenancy began on February 1, 2019 on a fixed term tenancy ending on January 31, 2020 and then thereafter on a month-to-month basis as per the signed tenancy agreement dated January 4, 2019. The monthly rent is \$1,100.00 payable on the 1st day of each month. A security deposit of \$550.00 and a pet damage deposit of \$550.00 were paid on February 1, 2019.

The landlord stated that the tenants were served with a 10 Day Notice dated May 2, 2019. It states that the tenants failed to pay rent of \$1,100.00 that was due on May 1, 2019 and provides for an effective end of tenancy date of May 12, 2019.

The landlords claim that since the 10 Day Notice was served, the tenant continues to occupy the space and has not paid any rent. The landlord seeks monetary compensation of:

\$1,100.00	Unpaid Rent, May 2019
\$1,100.00	Unpaid Rent, June 2019
\$100.00	Filing Fee

The tenant provided testimony confirming that no rent has been paid to the landlord for May and June 2019 and that she still occupies the rental space.

Analysis

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. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed testimony of both parties and find that the landlord has established a claim for unpaid rent of \$2,200.00 for May and June 2019 as confirmed by the tenant.

I also find that as the landlord has been successful that the landlord is entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted a monetary order for \$2,300.00.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the 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: June 18, 2019

Residential Tenancy Branch