



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REAL PROPERTY MANAGMENT PINNACLE  
INC. and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      OPRM-DR, FFL

### Introduction

This hearing is a continuation of a direct request application made by the landlord pursuant to the *Residential Tenancy Act* (the “**Act**”) for:

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

This matter came before Adjudicator Doyon on July 17, 2019, who found that the tenants were duly served with the Notices of Dispute Resolution Proceeding. However, the direct request application was adjourned to this hearing, due to the following findings:

I find that the tenants’ address on the residential tenancy agreement submitted by the landlord is incomplete as it does not indicate the city in which the rental unit is located.

I find that this discrepancy in the tenants’ address raises a question that can only be addressed through a participatory hearing.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:40 am in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 am. The landlord’s property manager attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord's property manager testified that the tenants were served the Notice of Reconvened Hearing, the interim decision, and all other required documents on July 17, 2019, via posting on the rental unit door.. I find that the tenants were served with this package on July 20, 2019, three days after its posting, in accordance with sections 88, 89, and 90 of the Act.

### **Issue(s) to be Decided**

Is the landlord entitled to:

- an order of possession for non-payment of rent;
- a monetary order for unpaid rent; and
- authorization to recover the filing fee for this application from the tenants?

### **Background and Evidence**

Per Adjudicator Doyon's decision, the landlord submitted the following evidentiary material:

- 1) A copy of a residential tenancy agreement which was signed by the landlord and the tenants on February 6, 2019, indicating a monthly rent of \$2,500.00, due on the first day of each month for a tenancy commencing on March 1, 2019;
- 2) A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "**10 Day Notice**") dated July 4, 2019, for \$2,500.00 in unpaid rent. The 10 Day Notice provides that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of July 15, 2019;
- 3) A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenants' door at 11:00 am on July 4, 2019; and
- 4) A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

The application for dispute resolution, the 10 Day Notice, and the Direct Request Worksheet all set out the address of the rental unit in question as being located in a certain city ("**City A**"). The tenancy agreement does not list the city where the rental unit is located.

The landlord's property manager testified:

- That the rental unit is located in City A.

- The tenants signed a Mutual Agreement to End Tenancy effective July 31, 2019 (no copy of such a document was entered into evidence).
- The tenants vacated the rental unit as of August 1, 2019.
- The tenants' rental arrears are at \$2,500.00
- The tenants paid a \$1,250.00 security deposit and a \$1,250.00 pet damage deposit to the landlord, which the landlord retains in trust.
- The landlord is abandoning its claim for a \$25.00 insufficient funds charge as per the tenancy agreement.

### Analysis

I have reviewed all documentary evidence and find that in accordance with section 88 and 90 of the Act the tenants were deemed served with the 10 Day Notice on July 7, 2019, three days after its posting.

I accept the landlord's property manager's evidence that the rental unit is located in City A.

I accept the landlord's evidence that the tenants have vacated the rental property. As such, no order of possession is required.

I find that the tenants were obligated to pay monthly rent in the amount of \$2,500.00, as established in the tenancy agreement. Section 26 of the Act requires that a tenant pay rent when it is due under the tenancy agreement. I accept the evidence before me that the tenants have failed to pay rental arrears in the amount of \$2,500.00.

Section 7 of the Act states:

#### **Liability for not complying with this Act or a tenancy agreement**

7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Accordingly, I find that the landlord is entitled to a monetary Order of \$2,500.00 for rental arrears owed by July 1, 2019 as claimed by the landlord.

I find that the landlord may retain the security deposit and pet damage deposits (\$2,500.00) in full satisfaction of the rental arrears.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

In summary, the landlord is entitled to a monetary order as follows:

Rental arrears	\$2,500.00
Filing fee	\$100.00
Deposit credit	-\$2,500.00
<b>Total</b>	<b>\$100.00</b>

### Conclusion

Pursuant to section 72(2) of the Act, the landlord may retain the security deposit and pet damage deposit in full satisfaction of the rental arrears owed by the tenants.

Pursuant to sections 67 and 72(1) of the Act, I find that the landlord is entitled to a monetary order in the amount of \$100.00 for the recovery of the filing fee for this application. Should the tenants fail to comply with this order, this order may be filed in, and enforced as an order of, the Small Claims Division of the Provincial Court.

The landlord is provided with this order in the above terms and must serve the tenant with this order as soon as possible.

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: September 16, 2019

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Residential Tenancy Branch