



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL MNDCL-S MNRL-S OPR  
                                 CNR FFT LAT OLC PSF

### Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning applications made by the landlord and by the tenant.

The landlord's application seeks:

- an Order of Possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement;
- an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and
- to recover the filing fee from the tenant for the cost of the application.

The tenant's application seeks:

- an order cancelling a notice to end the tenancy for unpaid rent or utilities;
- an order allowing the tenant to change locks to the rental unit;
- an order that the landlord provide services or facilities required by the tenancy agreement or the law;
- an order that the landlord comply with the *Act* or the tenancy agreement; and
- to recover the filing fee from the landlord.

The landlord attended the hearing and gave affirmed testimony, however the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord testified that the tenant was served with the landlord's Application for Dispute Resolution,

evidence and notice of this hearing by registered mail on September 10, 2019 and has provided a photograph of the envelope marked "Unclaimed" by Canada Post and a date stamp. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Since the tenant has not joined the call, I dismiss the tenant's application without leave to reapply.

#### Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was given in accordance with the Residential Tenancy Act?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Should the landlord be permitted to keep the security deposit in partial satisfaction of the claim?

#### Background and Evidence

The landlord testified that this month-to-month tenancy began on May 3, 2017 and the tenant still resides in the rental unit. Rent in the amount of \$350.00 per month is payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$175.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is the upper unit of a house. No written tenancy agreement was signed by the parties.

The landlord further testified that on August 20, 2019 she posted to the door of the rental unit both pages of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. A copy of the first page only has been provided by the tenant for this hearing. It is dated August 20, 2019 and contains an effective date of vacancy of September 2, 2019 for unpaid rent in the amount of \$700.00 that was due on August 1, 2019. No rent has been paid since it was issued, and the tenant is now in arrears of rent the sum of \$1,400.00 for the months of July, August, September and October, 2019.

The landlord was permitted to upload a copy of the Notice that was served on the tenant after the hearing had concluded. I have now received both pages of the 2-page form along with a 2-page Proof of Service document.

### Analysis

The *Residential Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the notice given is in the approved form. I have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities uploaded by the landlord and I have compared it to the first page only that was uploaded by the tenant. I find that it is in the approved form and contains information required by the *Act*. Having dismissed the tenant's application to cancel the Notice, I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

I also accept the undisputed testimony of the landlord that the tenant has not paid any rent for the months of July, August, September or October, 2019. I also accept, considering the evidence uploaded by the tenant and the undisputed testimony of the landlord that rent is \$350.00 per month. Therefore, I find that the tenant owes the landlord \$1,400.00.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

I order the landlord to keep the \$175.00 security deposit in partial satisfaction of the landlord's claim, and I grant a monetary order in favour of the landlord for the difference in the amount of \$1,325.00 ( $\$1,400.00 + \$100.00 - \$175.00 = \$1,325.00$ ).

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I order the landlord to keep the \$175.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,325.00.

This order is final and binding and may be enforced.

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: October 29, 2019

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Residential Tenancy Branch