



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL-S, FFL; CNR, OLC, RP, MNDCT, FFT

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent and utilities, pursuant to section 55;
- a monetary order for \$8,600.28 for unpaid rent and utilities, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with the tenants' application pursuant to the *Act* for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated October 2, 2019 ("10 Day Notice"), pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62;
- an order requiring the landlord to complete repairs to the rental unit, pursuant to section 33;
- a monetary order for \$21,705.79 for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for their application, pursuant to section 72.

The landlord, the landlord's two agents, agent FRX ("landlord's agent") and "agent FEX," and the two tenants attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord confirmed that his two agents had permission to speak on behalf at this hearing. This hearing lasted approximately 134 minutes.

The hearing began at 1:30 p.m. with all parties present. The landlord exited the call at 3:26 p.m. without warning and did not call back. The landlord's agent said that the landlord's phone died. The hearing ended at 3:44 p.m.

The landlord's agent confirmed receipt of the tenants' application for dispute resolution, notice of hearing and first evidence package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application, notice of hearing and first evidence package.

The landlord's agent said that he received the tenants' second evidence package late on October 27, 2019 and he was unable to open the USB digital evidence drive. The tenants said that they asked the landlord if he could see the evidence and they offered him a replacement USB drive before the hearing. The landlord said that it was too late, as it was only days before the hearing. As both parties voluntarily settled their applications, I do not need to record findings of service regarding the tenants' second evidence package, as I was not required to consider it since I did not make a decision.

During the hearing, both parties confirmed that there is a "future hearing" scheduled for the landlord's application on December 9, 2019 at 9:30 a.m. The tenants confirmed receipt of the landlord's application. Both parties agreed to settle the landlord's application at this hearing and confirmed that they would not attend the future hearing because it is cancelled by way of this agreement. The file number for that hearing appears on the front page of this decision.

At the outset of the hearing, both parties confirmed that the tenants had vacated the rental unit, so the landlord's 10 Day Notice was cancelled.

Settlement Terms

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that the landlord will retain the tenants' entire security deposit of \$1,200.00;
2. The tenants agreed to pay the landlord \$1,300.00 by way of e-transfers to the email address provided by the landlord's agent during the hearing, according to the following payment schedule:
 - a. \$650.00 will be paid by November 22, 2019;
 - b. \$650.00 will be paid by December 6, 2019;
3. Both parties agreed to bear the costs of the \$100.00 filing fees paid for their applications;
4. The tenants agreed that this settlement agreement constitutes a final and binding resolution of their application at this hearing.
5. The landlord agreed that this settlement agreement constitutes a final and binding resolution of his application scheduled for a future hearing at 9:30 a.m. on December 9, 2019, arising out of this tenancy, the file number of which appears on the front page of this decision;
 - a. Both parties confirmed that they would not be attending the future hearing which is hereby cancelled by way of this settlement.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

Conclusion

The landlord's 10 Day Notice, dated October 2, 2019, is cancelled and of no force or effect.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$1,300.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant(s) fail to pay the landlord \$1,300.00 as per condition #2 of the above agreement. The tenant(s) must be served with a copy of this Order. Should the tenant(s) 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.

I order the landlord to retain the tenants' entire security deposit of \$1,200.00.

Both parties must bear their own costs of the \$100.00 filing fees paid for their applications.

The landlord's application, scheduled for a future hearing on December 9, 2019 at 9:30 a.m., is settled by way of this agreement and neither party is required to attend the future hearing.

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: November 07, 2019

Residential Tenancy Branch