



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNRL-S, OPR

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution filed on October 9, 2019, wherein the Landlord sought an Order of Possession and Monetary compensation based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on September 16, 2019 (the "Notice"), authority to retain the Tenant's security deposit and recovery of the filing fee.

The hearing of the Landlord's Application was scheduled for teleconference at 11:00 a.m. on November 7, 2019. Only the Landlord called into the hearing. She gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 11:17 a.m. Additionally, 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.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Landlord testified that she served the Tenant with the Notice of Hearing and the Application on October 10, 2019 by registered mail. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision.

Residential Tenancy Policy Guideline 12—Service Provisions provides that service cannot be avoided by refusing or failing to retrieve registered mail and reads in part as follows:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to the above, and section 90 of the *Residential Tenancy Act*, documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of October 15, 2019 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession and monetary compensation based on the Notice?
2. Should the Landlord be authorized to retain the Tenant's security deposit?
3. Should the Landlord recover the filing fee?

Background and Evidence

In support of her claim the Landlord testified as follows. She stated that the tenancy began approximately nine years ago; at that time the rent was \$950.00 per month and the Tenant paid a security deposit of \$475.00. The Landlord testified that monthly rent is currently \$1,350.00 which is subject to a \$20.00 late fee. This information was also contained in written submissions provided by the Landlord.

The Tenant failed to pay the July, August and September rent, following which the Landlord issued the Notice. The Notice indicated that the Tenant owed \$4,188.00 in rent and also owed \$1,434.00 in utilities.

The Landlord testified that she served the Notice on the Tenant by posting to the rental unit door on September 16, 2019 (notably the Notice indicated it was served personally).

The Notice informed the Tenant that they had five days in which to pay the outstanding rent and utilities, or make an application to dispute the Notice, failing which they would be conclusively presumed to have accepted the end of the tenancy.

The Landlord confirmed that the Tenant did not pay the outstanding rent, nor did they make an Application for Dispute Resolution.

The Landlord testified that the Tenant also failed to pay the November rent, such that at the time of the hearing the following amounts were outstanding:

July rent	\$1,317.00
August rent	\$1,350.00
September rent	\$1,350.00
October rent	\$1,350.00
November rent	\$1,350.00
Outstanding utilities	\$1,434.00
TOTAL CLAIM	\$8,151.00

Analysis

Based on the Landlord's undisputed testimony and evidence before me, and on a balance of probabilities, I find as follows.

I find that the Tenant has not paid the outstanding rent and did not apply to dispute the Notice; consequently, the Tenant is conclusively presumed, pursuant to section 46(5) of the Act, to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an Order of Possession effective **two (2) days** after service on the Tenant. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the Landlord has established a total monetary claim of **\$8,251.00** comprised of the following:

July rent	\$1,317.00
August rent	\$1,350.00
September rent	\$1,350.00
October rent	\$1,350.00
November rent	\$1,350.00

Outstanding utilities	\$1,434.00
Filing fee	\$100.00
TOTAL AWARDED	\$8,251.00

I order that the Landlord retain the Tenant's security deposit of \$475.00 in partial satisfaction of the claim and I grant the Landlord an Order under section 67 for the balance due of **\$7,776.00** . This Order may be filed in the Provincial Court (Small Claims Division) and enforced as an order of that Court.

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim, and is granted a Monetary Order for the balance due.

This Decision is final and binding on the parties, except as otherwise provided under the Act, and 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