



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act). The landlord applied for an order of possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 9, 2019 (10 Day Notice). This application began as an ex-parte application through the Direct Request process, and was adjourned to a participatory hearing based on an Interim Decision dated September 18, 2019, which should be read in conjunction with this decision.

At the participatory hearing, landlord agent MC (agent) attended the hearing. The hearing process was explained to the agent and the agent was given an opportunity to ask questions about the hearing process. Thereafter the agent gave affirmed testimony, was provided the opportunity to present the landlord's' relevant evidence orally and in documentary form prior to the hearing, and make submissions to me.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated September 24, 2019 ("Notice of Hearing") was considered. The agent testified that the Notice of Hearing was initially served by posting to the tenant's door on September 24, 2019; however, the Notice of Adjourned Hearing and Interim Decision were sent by registered mail according to the agent on September 27, 2019. A registered mail tracking number was provided in evidence and has been included on the cover page of this decision for ease of reference. According to the Canada Post online registered mail tracking website, the tenant failed to pick up the registered mail package. The agent testified that the tenant abandoned the rental unit as of October 1, 2019. I find the tenant was sufficiently served in accordance with the Act as the tenant continued to have personal items in the rental unit on the date the landlord served the tenant on September 27, 2019, according to the testimony of the agent, which I accept.

As a result, I find this matter to be unopposed by the tenant. The hearing continued without the tenant present as a result.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matter

The agent confirmed the email address for the landlord. The agent was advised that the decision and any related orders would be emailed to the landlord and that the decision would be sent by regular mail to the tenant as an email address for the tenant was not known by the agent. The agent confirmed that the landlord is no longer seeking an order of possession as the landlord has possession back of the rental unit as of October 1, 2019.

Issue to be Decided

- Is the landlord entitled to a monetary order under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on April 1, 2018. Monthly rent was \$1,400.00 per month, and due on the first day of each month. Even though the agent stated there was an additional rent increase to \$1,485.00 including parking, I find the tenancy agreement included one parking spot and that there was no parking agreement submitted in evidence or as an addendum. In addition, I will address the amount of the rent increase later in this decision.

The agent stated that the tenant was served with the 10 Day Notice on September 9, 2019, by posting the 10 Day Notice to the tenant's door. The agent testified that the tenant did not dispute the 10 Day Notice or pay the rent indicated as owed in the amount of \$1,485.00. The 10 Day Notice indicates that that \$1,485.00 was owed as of September 1, 2019 and has an effective vacancy date of September 18, 2019.

The landlord is also seeking the recovery of the filing fee.

Analysis

Based on the undisputed testimony of the landlord and the undisputed documentary evidence before me, and on the balance of probabilities, I find the following.

Firstly, the agent made it clear during the hearing that they were not claiming against the tenant's security deposit of \$700.00 as the tenant has failed to provide the landlord with their written forwarding address. As a result, I will not offset any amount granted with the security deposit.

The maximum rent increase for 2019 was 2.5% under the Act and I find the rent increase submitted in evidence does not comply with that amount as 2.5% of \$1,400.00 would be \$35.00 and as a result, I find the landlord is not entitled to rent of \$1,485.00 as \$85.00 exceeds the maximum rent increase for 2019 under the Act. I do; however, find that the tenant failed to pay \$1,400.00 in rent for the month of September 2019 and that the tenant breached section 26 of the Act, which states that a tenant must pay rent when it is due in accordance with the tenancy agreement.

Therefore, I grant the landlord **\$1,400.00** for unpaid September 2019 rent, and I dismiss the remaining \$85.00 portion of the landlord's claim due to insufficient evidence, without leave to reapply. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

As the landlord's application was mostly successful, and pursuant to section 72 of the Act, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00**.

Conclusion

The landlord's application is mostly successful.

The landlord has established a total monetary claim of \$1,500.00 comprised of unpaid rent and the filing fee as described above. The landlord has been granted a monetary order in the amount of \$1,500.00 pursuant to section 67 of the Act.

This decision will be emailed to the landlord and sent by regular mail to the tenant. The monetary order will be emailed to the landlord for service on the tenant as necessary.

This decision is final and binding on the parties, unless 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 29, 2019

Residential Tenancy Branch