



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, LRE, FFT, OPR-DM, OPRM-DR, FFL

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on March 23, 2020 for:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order suspending or setting conditions on the Landlord’s right to enter the rental unit - Section 70; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on June 21, 2011 for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent or utilities - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matters

As the Tenant did not attend the hearing to present their claims, I dismiss the Tenant’s application.

I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the "Materials") by registered mail on March 31, 2020 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Materials on April 5, 2020.

The Landlord confirms that in a previous decision dated April 7, 2020 the Landlord was granted an order of possession effective May 15, 2020. The Landlord confirms that the Tenant is expected to be moved out by 1:00 p.m. on this date.

Section 77(3) of the Act provides that a decision or an order of the director under this Part is final and binding on the parties. Based on the Landlord's undisputed evidence of the previous decision I find that the grant of the order of possession to the Landlord effective May 15, 2020 is final and binding. I therefore dismiss the Landlord's application for an order of possession.

#### Issue(s) to be Decided

Is the Landlord entitled to unpaid rent?

Is the Landlord entitled to recovery of the filing fee?

#### Background and Evidence

The tenancy under written agreement started on November 16, 2018. Rent of \$1,600.00 is payable on the 15th day of each month. At the outset of the tenancy the Landlord collected \$800.00 as a security deposit. The Tenant failed to pay March and April 2020 rent and the Landlord claims \$3,200.00.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the undisputed evidence of rent payable and of unpaid rent I find that the Landlord has substantiated an entitlement to the claimed amount of \$3,200.00. As the Landlord's claim has been successful, I find that the Landlord is entitled to recovery of the \$100.00 filing fee for a total entitlement of \$3,300.00. Deducting the security deposit plus zero interest of \$800.00 leaves \$2,500.00 owed to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of \$800.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining **\$2,500.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: May 15, 2020

---

Residential Tenancy Branch