



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METCAP LIVING MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNRL-S 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) for an order of possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 7, 2020 (10 Day Notice), for a monetary order for unpaid rent or utilities, to retain the tenant's security deposit towards money owing, and to recover the cost of the filing fee.

A landlord agent MF (agent) attended the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated March 10, 2020 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence were served on the tenant via registered mail on March 11, 2020 and was addressed to the tenant at the rental unit address and that the tenant did not vacate the rental unit until April 15, 2020. A registered mail tracking number was provided and has been included on the style of cause for ease of reference. According to the Canada Post online registered mail tracking website, the registered mail package was mailed on March 11, 2020 and has not been picked up by the tenant. Section 90 of the Act stated that documents served by registered mail are deemed served 5 days after they are mailed. Therefore, I find the tenant was deemed served as of March 16, 2020 with the application, Notice of Hearing and documentary evidence.

In addition, I find this application to be unopposed by the tenant as I find the tenant was duly served as noted above and did not attend the hearing. The hearing continued without the tenant present accordingly.

Preliminary and Procedural Matters

Firstly, the agent requested to amend the surname of the tenant to include the full legal name as stated on the tenancy agreement, which I amend pursuant to section 64(3)(c) of the Act.

Secondly, the agent confirmed that they no longer required an Order of Possession as the tenant vacated the rental unit on April 15, 2020, since filing their application on February 28, 2020. As a result, I will not consider the landlord's application for an Order of Possession.

Thirdly, the agent testified that in addition to the rent owed for February 2020, the landlord suffered a loss of rent for April 2020. As a result, the landlord requested to amend the application to include a rental loss for April 2020. I find this request to amend the application does not prejudice the respondent tenant as the tenant would be aware that rent is due pursuant to the tenancy agreement on April 1, 2020 and did not vacate the rental unit until April 15, 2020, after which rent was due for April 2020, therefore, I amend the application to include \$2,266.00 for April 2020 loss of rent also pursuant to section 64(3)(c) of the Act. I note that the agent confirmed the tenant paid rent for March 2020.

Fourthly, the landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. The decision will be mailed to the tenant by regular mail as the landlord did not have an email address for the tenant. In addition, the agent requested not to offset the tenant's security deposit from any money owing as the tenant has failed to provide a written forwarding address to the landlord as required by the Act.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenant agreement was submitted in evidence. A fixed-term tenancy began on December 1, 2019. The monthly rent is \$2,266.00 per month and is due on the first day of each month. The tenant paid a security deposit of \$1,133.00 at the start of the tenancy, which the landlord continues to hold.

The landlord is seeking unpaid rent of \$2,266.00 for February 2020, loss of rent for April 2020 of \$2,266.00, plus the \$100.00 filing fee. The landlord stated that the tenant eventually vacated the rental unit on April 15, 2020. The landlord has been unable to re-rent the rental unit.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the agent provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's application is fully successful in the amount of **\$4,632.00**, which includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100.00 as the landlord's application is successful. I have considered the undisputed testimony of the agent and that the application was unopposed by the tenant.

I find the tenant breached section 26 of the Act by failing to pay \$2,266.00 for February 2020 rent. I find that by failing to vacate the rental unit until April 15, 2020, the landlord suffered a loss of rent for April 2020 as claimed.

I grant the landlord a monetary order pursuant to section 67 of the Act, for the amount owing by the tenant to the landlord of **\$4,632.00**.

I caution the tenant to comply with section 26 of the Act in the future, which requires rent to be paid on the date that it is due.

Conclusion

The landlord's application is fully successful.

The landlord has been granted a monetary order pursuant to section 67 of the Act, in the amount owing of \$4,632.00. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

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 only for service on the tenant.

The tenant has been cautioned to comply with section 26 of the Act.

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: May 4, 2020

Residential Tenancy Branch