



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Northcastle Homes Ltd, and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPB, MNRL-S, FFL

Introduction

This hearing was scheduled in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "*Act*") for:

- an order of possession for breach of vacate clause, pursuant to section 55 of the *Act*;
- a monetary compensation for unpaid rent pursuant to section 67 of the *Act*; and
- an application for filing fee from the tenant pursuant to section 72 of the *Act*.

The landlord's partner RG attended the hearing via conference call. The landlord was given a full opportunity to be heard, to present sworn testimony and to make submissions. The tenant did not attend this hearing.

Rule of Procedure 7.3 states:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply. I proceeded with the hearing.

The landlord testified the tenant was served the Notice of Dispute Resolution together with the evidentiary package by registered mail on April 27, 2020 I find that this satisfied the service requirements set out in sections 88 and 89 of the *Act*, and find the tenant was deemed to have received the documents in accordance with section 90 of the *Act* on May 02, 2020. The Canada Post tracking number is listed on the cover page of this decision.

The landlord affirmed that they are no longer seeking an Order of Possession as the tenant has vacated the rental unit on April 30, 2020.

Amendment

Rule 2.3 of The Residential Tenancy Branch Rules of Procedure allow an Arbitrator to decline to hear or dismiss issues if the Arbitrator determines the issues are unrelated. I have determined that the tenant's application for an Order of possession is no longer required. I dismiss this portion of the application.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

This tenancy began on November 1, 2020. The landlord testified that the monthly rent in the amount of \$2,100.00 was payable on the first day of each month. The landlord holds a security deposit of \$1,050.00 in Trust.

The landlord testified the tenant had not paid the rent for the month of April 2020.

The landlord affirmed that the tenant vacated the property on May 1, 2020. The tenant did not provide a forwarding address. The landlord testified there was garbage left in the rental unit.

The tenant did not attend the hearing to present any submissions in relation to the Notice and the tenant did not upload any evidence disputing the landlord's Notice.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy agreement or the *Act*, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The purpose of compensation is to put the claimant who suffered the damage or loss in the same position as if the damage or loss had not occurred. Therefore, the claimant bears the burden of proof to provide sufficient evidence to establish all of the following four points:

1. The existence of the damage or loss;
2. The damage or loss resulted directly from a violation by the other party of the *Act*, regulations, or tenancy agreement;
3. The actual monetary amount or value of the damage or loss; and
4. The claimant has done what is reasonable to mitigate or minimize the amount of the loss or damage claimed, pursuant to section 7(2) of the *Act*.

In this case, the onus is on the landlord to prove entitlement to a claim for a monetary award. The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

Based on the landlord's testimony. The tenant did not participate in the hearing or file an application to dispute the notice. I find that the tenant owes the landlord the sum of \$2,100.00 for April rent pursuant to section 67 of the *Act*.

Section 72(2) states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit due to the tenant. I find that the landlord is entitled to retain the tenant's entire security deposit in the amount of \$1,050.00 in part satisfaction of their monetary claim against the tenant.

Pursuant to section 67 of the *Act*, I award the landlord the monetary award of \$1,050.00 for rent deducting the security deposit of \$1050.00

As the landlord has been successful in this application, I grant the landlord a monetary award of \$100.00 for reimbursement of the filing fee pursuant to section 72 of the *Act*.

Conclusion

I grant a monetary order for the sum of **\$1,150.00** for the unpaid rent including the \$100.00 filing fee pursuant to section 67 and 72 of the *Act*.

The tenant must be served with this Order as soon as possible. Should the tenant 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.

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: June 09, 2020

Residential Tenancy Branch