



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, LRE  
OPRM-DR, OPR-DR-PP, FFL, MNRL

### Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning applications made by the tenant and by the landlord. The tenant has applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities and for an order limiting or setting conditions on the landlord's right to enter the rental unit. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application. The landlord's application was originally made by way of the Direct Request process, which was referred to this participatory hearing, joined to be heard with the tenant's application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call. Therefore, I dismiss the tenant's application without leave to reapply.

The landlord has provided a Canada Post tracking document showing that the tenant was served with the landlord's Application for Dispute Resolution and notice of this hearing (the Hearing Package) on October 1, 2020, which was delivered on October 5, 2020. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence of the landlord has been reviewed and is considered in this Decision.

### Issues to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was given in accordance with the *Residential Tenancy Act*?

- Has the landlord established a monetary claim as against the tenant for unpaid rent?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on December 1, 2016 and reverted to a month-to-month tenancy after December 1, 2017, and the tenant still resides in the rental unit. Rent in the amount of \$1,750.00 was originally payable on the 1<sup>st</sup> day of each month, which has been raised during the tenancy and is now \$1,923.75 per month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$875.00 which is still held in trust by the landlord. A pet damage deposit was collected during the tenancy, but was returned to the tenant once the pet was no longer in the rental unit. The rental unit is an apartment in a 4-storey building, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that the tenant failed to pay rent in full in August, 2020, and the landlord received only a \$300.00 rent subsidy. No further subsidy was received by the landlord, and the tenant paid \$1,000.00 leaving \$923.75 outstanding for September, 2020. No rent has been paid for October or November, 2020, and the tenant is in arrears of rent the sum of \$6,395.00, which the landlord claims as against the tenant.

On September 14, 2020 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice) by registered mail, and a copy has been provided for this hearing, as well as a Canada Post cash register receipt bearing that date. The Notice is dated September 14, 2020 and contains an effective date of vacancy of September 30, 2020 for unpaid rent in the amount of \$1,923.75 that was due on September 1, 2020. The landlord testified that the tenant had paid \$1,000.00 on September 8, 2020 and an error exists in the Notice, however \$923.75 was overdue for September at that time as well as \$1,623.75 for August.

The landlord claims an Order of Possession, a monetary order for the overdue rent of \$6,395.00 and recovery of the \$100.00 filing fee.

### Analysis

Firstly, the *Residential Tenancy Act* specifies that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the notice given is in the approved form. I have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and I find that it is in the approved form and contains information required by the *Act*. Having dismissed the tenant's application to cancel the Notice, I grant an Order of Possession in favour of the

landlord. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

I also accept the undisputed testimony of the landlord that the tenant is in arrears of rent \$1,623.75 for August as well as \$923.75 for September, and \$1,923.75 for each of the months of October and November, 2020. I am satisfied that the landlord has established a monetary claim of \$6,395.00 for unpaid rent.

The landlord's Monetary Order Worksheet also claims the cost of registered mail. The *Act* provides for recovery of a filing fee, but not for costs associated with serving documents or preparing for a hearing. Since the landlord has been successful with the application the landlord is entitled to recovery of the \$100.00 filing fee.

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$6,495.00.

This order is final and binding and may be enforced.

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: November 24, 2020

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Residential Tenancy Branch