



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL 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 a monetary order for unpaid rent or utilities, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord 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 July 14, 2020 (Notice of Hearing), application and documentary evidence were considered. The landlord testified that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on July 20, 2020. A registered mail tracking number receipt was submitted in evidence and the tracking number has been referenced on the Style of Cause for ease of reference. According to the Canada Post online registered mail tracking website the registered mail package was delivered on July 22, 2020. Based on the undisputed evidence before me, I find the tenant was sufficiently served under the Act as of July 22, 2020, which is the date the registered mail package was delivered. Given the above, I find this application to be unopposed by the tenant as the tenant was duly served and did not attend the hearing.

Given the above, the hearing continued without the tenant present in accordance with Rule 7.1 and Rule 7.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules), which address consequences for not attending a dispute resolution hearing.

Preliminary and Procedural Matters

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 landlord confirmed that they did not have an email address for the tenant. As a result, the decision will be sent by regular mail to the tenant.

In addition, the landlord testified that in addition to the rent owed for April, May, June and July of 2020, the tenant has subsequently not paid the rent for August and October of 2020. The landlord referred to a previous decision, the file number of which has been included on the Style of Cause for ease of reference (previous decision). As a result, the landlord requested to amend the application to include rent owed for August 2020 and loss of rent of October 2020. The landlord was advised that I find this request to amend the application does not prejudice the respondent tenant as the tenant would be aware are ought to be aware that rent is due pursuant to the tenancy agreement. Therefore, I amend the application to \$5,850.00, which will be described further below.

Issues to be Decided

- Is the landlord entitled to a monetary order for unpaid rent or loss of rent 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 tenancy agreement was submitted in evidence. A fixed-term tenancy began on December 1, 2019 and was not scheduled to revert to a month to month tenancy until November 30, 2020. The tenant's monthly rent was \$1,050.00 and was due on the first day of each month. The landlord clarified that due to the tenant failing to provide a written forwarding address since being forcibly evicted by a Bailiff, the landlord no longer wants to offset the security deposit as the tenant must provide their written forwarding address in compliance with section 38 of the Act.

The landlord's monetary claim of \$5,850.00 is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. April 2020 rent	\$1,050.00
2. May 2020 rent	\$1,050.00
3. June 2020 rent	\$1,050.00

4. July 2020 rent	\$1,050.00
5. August 2020 rent	\$1,050.00
6. Portion of October 2020 rent lost	\$600.00
TOTAL	\$5,850.00

The landlord testified that based on the previous decision, a monetary order for unpaid September 2020 rent was already obtained with an order of possession granted. The landlord testified that the tenant refused to comply with the order of possession, resulting in a Bailiff being hired and the tenant was forcibly removed from the rental unit on October 6, 2020. The landlord stated that they were able to secure new tenants for October 19, 2020, and that the new tenants paid the landlord \$450.00 for the remainder of October 2020 rent, leaving a loss of \$600.00 for October 2020.

The landlord testified that the tenant failed to pay April, May, June, July, and August 2020 rent, and that the landlord suffered a loss of \$600.00 for October 2020. As September 2020 rent was already addressed in the previous decision, it will not be addressed further in this decision.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the landlord 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 **\$5,950.00**, 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 fully successful.

I have considered the undisputed testimony of the landlord and that the application was unopposed by the tenant. I also will not offset the claim with the security deposit based on the landlord's oral request during the hearing.

I find the tenant breached section 26 of the Act by failing to pay rent in accordance with the tenancy agreement. I find that by failing to vacate the rental unit when served with the order of possession, resulting in a Bailiff being hired and a Writ of Possession being

applied for from the Supreme Court, that the landlord is entitled to \$600.00 loss of rent for October 2020, which is included in the amount granted.

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 **\$5,950.00**.

I caution the tenant not to breach section 26 of the Act in the future.

Conclusion

The landlord's application is fully successful.

The landlord has established a total monetary claim of \$5,950.00 and has been granted a monetary order in that amount. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division). The tenant may be held liable for the costs associated with enforcing the monetary order.

This decision will be emailed to both parties. The monetary order will be emailed to the landlord only for service on the tenant.

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 4, 2020

Residential Tenancy Branch