



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPR, CNR, MNR, MNDC, FF*

### **Introduction**

This hearing dealt with applications by the landlord and the tenant, pursuant to sections 55, 67, 46 and 72 of the *Residential Tenancy Act*.

The landlord applied for an order of possession and for a monetary order for unpaid rent and utilities. The tenant applied for an order to cancel the notice to end tenancy. Both parties applied for the recovery of the filing fee.

The landlords attended the hearing along with their agent and were given full opportunity to present evidence and make submissions. The tenant did not attend the hearing.

The landlord testified that he served the tenant with a notice of hearing on October 19, 2020, by registered mail to the rental unit. The landlord filed a copy of the tracking slip into evidence. Despite having been served with a notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing. Therefore, the tenant's application is dismissed without leave to reapply and accordingly this hearing only dealt with the landlord's application.

### **Issues to be decided**

Is the landlord entitled to an order of possession and a monetary order for unpaid rent and the filing fee?

### **Background and Evidence**

The landlord testified that the tenancy started on September 15, 2019. The monthly rent was \$2,800.00 payable on the first of the month and did not include utilities. Prior to moving in the tenant paid a security deposit of \$1,400.00.

The landlord stated that during the pandemic, he received \$500.00 towards rent from Government assistance for each of the months of April to August 2020. The tenant was required to pay the balance of \$2,300.00 for each of these months and failed to do so. On August 20, 2020, the landlord drew up a repayment plan and presented it to the tenants. The tenants did not sign it and did not respond to the landlord. On that day the landlord also served the tenants with a demand letter for payment of outstanding utilities

On October 02, 2020, the landlord served the tenant with a 10-day notice to end tenancy for nonpayment of rent and utilities, by posting the notice on the door of the rental unit. The tenant disputed the notice in a timely manner but did not pay rent owed to the landlord and continued to occupy the rental unit.

On December 04, 2020 the landlord served the tenant with a 24-hour notice to enter the unit and visited on December 05, 2020. The landlord found that the tenant was not home, and it appeared that the tenant had moved out. The landlord stated that the house was left in a messy condition with a lot of broken furniture and garbage bags.

The landlord testified that at the time of the hearing, the tenant owed rent for the months of April to August 2020 in the total amount of \$11,500.00 plus \$8,400.00 for the months of October to December 2020. The landlord is also claiming \$843.04 for outstanding utilities. The landlord filed copies of the utility bills.

The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order in the total amount of \$20,743.04 for unpaid rent and utilities plus \$100.00 for the filing fee.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept his evidence in respect of the claim. The tenant received the notice to end tenancy on October 02, 2020 and did not pay overdue rent within five days of receiving the notice. The tenant applied to dispute the notice but did not attend the hearing.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

In the absence of evidence to the contrary, I find that the landlord has established a claim of \$20,743.04 for unpaid rent and utilities for the months of April to December 2020. Since the landlord has proven his claim, he is also entitled to the recovery of the filing fee of \$100.00.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for \$20,843.04. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective **2 days** after service on the tenant.

I grant the landlord a monetary order in the amount of **\$20,843.04**.

The tenant's application is dismissed in its entirety.

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: December 11, 2020

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Residential Tenancy Branch