



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDCL, FFL

Introduction

On September 29, 2020, the Landlord made an Application for Dispute Resolution seeking a Monetary Order based on a 10 Day Notice to End Tenancy for Unpaid Rent pursuant to Section 46 of the *Act Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenant did not make an appearance at any point during the 34-minute hearing. All parties in attendance provided a solemn affirmation.

The Landlord advised that the Tenant was served the Notice of Hearing and evidence package by registered mail on October 2, 2020 (the registered mail tracking number is noted on the first page of this Decision). The tracking history indicated that this package was not accepted by the Tenant. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was deemed to have received the Notice of Hearing and evidence package five days after it was mailed. As such, I have accepted the Landlord’s evidence and it will be considered when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the most current tenancy agreement started on October 1, 2019, that rent was established at an amount of \$1,250.00 per month, and that it was due on the first day of each month. A security deposit of \$625.00 was also paid. A copy of the written tenancy agreement was submitted as documentary evidence.

He advised that multiple 10 Day Notices to End Tenancy for Unpaid rent were served to the Tenant. He stated that the Tenant had made partial payments of rent for quite some time. While he was choosing not to apply for an Order of Possession, he was seeking a Monetary Order for the rental arrears, as follows:

- January 2020 rent: \$937.17
- February 2020 rent: \$418.34
- March 2020 rent: \$418.34
- September 2020 rent: \$835.00
- October 2020 rent: \$835.00
- Total rental arrears: **\$3,443.85**

He also advised that the Tenant was in arrears for rent from April 2020 to August 2020. However, as this period of time would be considered “affected rent” as per the State of Emergency, these rental arrears were not being sought in this Application. The Landlord was provided with direction to seek information about implementing a payment plan for these arrears so that he can begin to take action on this outstanding rent as well.

He stated that the Tenant had paid November and December 2020, and January 2021 rent in full.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 26 of the *Act* states that rent must be paid by the Tenant when due according to the tenancy agreement, whether or not the Landlord complies with the tenancy agreement or the *Act*, unless the Tenant has a right to deduct all or a portion of the rent.

Should the Tenant not pay the rent when it is due, Section 46 of the *Act* allows the Landlord to serve a 10 Day Notice to End Tenancy for Unpaid Rent. Once this Notice is received, the Tenant would have five days to pay the rent in full or to dispute the Notice. If the Tenant does not do either, the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice, and the Tenant must vacate the rental unit.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the Notice, state the grounds for ending the tenancy, and be in the approved form.

While the above pertains mostly to the Landlord seeking an Order of Possession based on the Notice, as he does not wish to end the tenancy, only the rental arrears will be considered in this Application.

The undisputed evidence before me is that the Tenant did not pay rent in full for January, February, March, September, or October 2020. As such, I am satisfied that the Landlord is owed the rental arrears for these months. Consequently, I grant the Landlord a monetary award in the amount of **\$3,443.85** to satisfy this claim.

As the Landlord was successful in this Application, I find that the Landlord is entitled to recover the filing fee.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a Monetary Order as follows:

Calculation of Monetary Award Payable by the Tenant to the Landlord

Item	Amount
Rental arrears for January 2020	\$937.17
Rental arrears for February 2020	\$418.34
Rental arrears for March 2020	\$418.34
Rental arrears for September 2020	\$835.00
Rental arrears for October 2020	\$835.00
Filing Fee	\$100.00
Total Monetary Award	\$3,543.85

Conclusion

Based on the above, the Landlord is provided with a Monetary Order in the amount of **\$3,543.85** in the above terms, and 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: January 18, 2021

Residential Tenancy Branch