



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WOODSMERE HOLDINGS CORP.  
and [tenant name suppressed to protect privacy]

## DECISION

### Dispute Codes

For the landlord: OPRM-DR, OPR-DR, FFL  
For the tenant: CNR, OLC

### Introduction

This hearing was convened as a result an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) by both parties.

The landlord applied for an order of possession for unpaid rent or utilities, for a monetary order unpaid rent or utilities, for authorization to keep all or part of the security deposit, and to recover the cost of the filing fee.

The tenant to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice), and for an order directing the landlord to comply with the Act, regulation or tenancy agreement.

An agent for the corporate landlord, NK (agent) attended the hearing. The tenant did not attend the hearing. As the tenant did not attend the hearing to present the merits of their application, the tenant's application was **dismissed, without leave to reapply**, after the 10-minute waiting period had elapsed pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rules 7.1 and 7.3. The hearing continued with consideration of the landlord's application.

The hearing process was explained to the agent, and the agent was given an opportunity was given to ask questions about the hearing process. Thereafter the agent gave affirmed testimony, was provided the opportunity to present their relevant evidence orally and in documentary form prior to the hearing and make submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The agent testified that they served the tenant by registered mail at the rental unit address prior to the tenant vacating the rental unit on January 19, 2021. I have reviewed the tracking number submitted in evidence, which has been included on the style of cause for ease of reference. I agree with the agent that the tenant was served at the tenant's address prior to the tenant vacating the rental unit. As a result of the above, I find the tenant was sufficiently served.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Preliminary and Procedural Matters

Firstly, I have amended the tenant's application to correctly reflect the name of the corporate landlord instead of the agent for the landlord. This amendment was made pursuant to section 64(3)(c) of the Act.

Secondly, the agent 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 decision will also be emailed to the tenant at the email address provided by the tenant in their application.

Thirdly, as the tenant vacated the rental unit on January 19, 2021, I find the order of possession is no longer required as the tenant has returned possession of the rental unit back to the landlord.

### Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- 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. The tenancy began on April 1, 2020 and reverted to a month to month tenancy after April 30, 2020. Monthly rent in the amount of \$1,450.00 was due on the first day of each month. The tenant paid

a security deposit of \$725.00 at the start of the tenancy, which the landlord continues to hold.

The landlord's monetary claim of \$3,000.00 is comprised of the following:

Item 1	Unpaid December 2020 rent	\$1,450.00
Item 2	Unpaid January 2021 rent	\$1,450.00
Item 3	Filing fee	\$100.00
	<b>TOTAL</b>	<b>\$3,000.00</b>

Regarding items 1 and 2, the landlord has claimed for unpaid rent of \$1,450.00 for the months of December 2020 and January 2021. The agent confirmed that the tenant vacated on January 18, 2021 based on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice).

Regarding item 2, the landlord is seeking the \$100.00 filing fee, which I will address later in this decision.

### Analysis

Based on the undisputed testimony of the landlord and the documentary evidence before me, and on the balance of probabilities, I find the following.

**Items 1 and 2** – I accept the agent's undisputed testimony that the tenant failed to pay \$1,450.00 rent for December 2020 and \$1,450.00 rent for January 2021 for a total of \$2,900.00 in rent arrears. Therefore, I find the tenant has breached section 26 of the Act which requires that rent be paid in accordance with the tenancy agreement, which in the matter before me was the first day of each month. Therefore, I find the landlord has met the burden of proof and is entitled to **\$2,900.00** in compensation for unpaid rent as claimed.

**Item 3** – As the landlord's application is fully successful, I grant the landlord the **\$100.00** filing fee pursuant to section 72 of the Act.

In addition to the above, I find the 10 Day Notice was undisputed by the tenant as the tenant failed to attend the hearing to dispute the 10 Day Notice and instead vacated the rental unit on January 19, 2021.

The landlord continues to hold the tenant's security deposit of \$725.00 which has not accrued interest since the start of the tenancy. The landlord requested to offset their claim with the tenant's security deposit.

**I authorize** the landlord to retain the tenant's full security deposit of \$725.00 in partial satisfaction of the landlord's monetary claim pursuant to sections 62(3) and 38 of the Act. **I grant** the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of **\$2,275.00**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

The tenant's application was dismissed in full, without leave to reapply as the tenant did not attend the hearing to present the merits of their application.

The landlord's application is fully successful. The landlord has established a total monetary claim of \$3,000.00 and has been authorized to retain the tenant's full security deposit of \$725.00 in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of \$2,275.00. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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

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: March 3, 2021

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Residential Tenancy Branch