



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, OPRM-DR, FFL

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlords applied for:

- an order of possession under a 10-Day Notice to End Tenancy for Unpaid Rent (the Notice) pursuant to sections 46 and 55;
- a monetary order for unpaid rent, pursuant to sections 26 and 67; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 11:15 A.M. to enable the tenant to call into this teleconference hearing scheduled for 11:00 A.M. The tenant did not attend the hearing. The landlord, represented by agent SO (the landlord), attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

At the outset of the hearing the landlord affirmed she understands it is prohibited to record this hearing.

I accept the landlord's testimony that the tenant was served with the notice of dispute resolution proceeding and the evidence (the materials) by registered mail on January 02, 2021, in accordance with section 89(2)(b) of the Act. The landlord served the interim decision and the notice of hearing by registered mail on January 21, 2021 (the tracking numbers are recorded on the cover of this decision).

Section 90 of the Act provides that a document served in accordance with Section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail the tenant is deemed to have received the materials on January 07, 2021 and the notice of hearing on January 26, 2021, in accordance with section 90 (a) of the Act.

The landlord stated on February 28, 2021 the tenant left the rental unit. The landlord served a second evidence package on March 12, 2021 by registered mail sent to the rental unit's address. As the tenant left the rental unit on February 28, 2021, I do not accept the service of the second evidence package, per section 89(2)(b) of the Act.

The landlord served the amendment on April 03, 2021. Rule of Procedure 4.6 states:

In any event, a copy of the amended application and supporting evidence should be served on the respondents as soon as possible and must be received by the respondent(s) not less than 14 days before the hearing.

Per Rule of Procedure 4.6, as the landlord served the amendment less than 14 days before the hearing, I do not accept the amendment.

Rule of Procedure 7.3 allows a hearing to continue in the absence of the respondent.

The landlord affirmed the tenancy started on August 18, 2016. Monthly rent in the amount of \$2,665.00 was due on the first day of the month. At the outset of the tenancy a security deposit of \$1,250.00 was collected. The landlord stated she believes the tenant did not authorize her to retain the security deposit.

On December 11, 2021 the landlord served the tenant with the Notice by attaching it to the rental unit's door. The landlord testified the tenant has paid the amount of the rental arrears in full on February 21, 2021.

The application for an order of possession is moot since the tenancy has ended. The application for a monetary order for unpaid rent is also moot since the tenant has paid the amount of the rental arrears in full.

Section 62(4)(b) of the Act states an application should be dismissed if the application or part of an application for dispute resolution does not disclose a dispute that may be determined under the Act. I exercise my authority under section 62(4)(b) of the Act to dismiss the landlords' application.

As the landlord learned that the tenant had abandoned the rental unit after they served the materials, the landlords are authorized to recover the filing fee.

### Conclusion

I dismiss the landlords' application without leave to reapply.

Pursuant to section 72(2)(b), the landlords are authorized to deduct \$100.00 from the security deposit to recover the filing fee.

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: April 19, 2021

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Residential Tenancy Branch