



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL, OPR-DR, OPRM-DR**

Introduction

This hearing, reconvened from an *ex parte* Direct Request proceeding dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- An order of possession pursuant to section 55;
- A monetary award for unpaid rent pursuant to section 67; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the Interim Decision and Notice of Reconvened Hearing in person on or about February 5, 2021. Based on the undisputed evidence of the landlord I find the tenant duly served with the landlord's materials on that date in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing the landlord testified that the tenant has vacated the rental unit and withdrew the portion of their application seeking an Order of Possession. The landlord said that since the application was filed additional rent has come due and owing and sought to amend the monetary amount of their claim. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure as additional rent coming due is reasonably foreseeable I amend the landlord's monetary claim from \$850.00 to \$2,250.00.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?
Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This tenancy began in June 2020. The rent for this periodic tenancy was \$750.00 payable on the first of each month. A security deposit of \$375.00 was collected at the start of the tenancy and is still held by the landlord. The tenant failed to pay rent for the months of January, February and March 2021 and there is an arrear of \$2,250.00 as at the date of the hearing. The landlord submits that the tenant abandoned the rental unit without providing proper notice to end the tenancy sometime in March 2021.

Among the documents the landlord submitted into evidence were a copy of the signed tenancy agreement and 10 Day Notice dated January 4, 2021 setting out a rental arrear of \$750.00 as at that date.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept that there was an enforceable tenancy agreement between the parties wherein the tenant was obligated to pay monthly rent in the amount of \$750.00 on the first of each month. I accept that the tenant failed to pay rent for the months of January, February, and March 2021 and there is an arrear of \$2,250.00. I find the landlord's evidence by way of their undisputed testimony and documentary materials to be sufficient to meet their evidentiary burden. Accordingly, I issue a monetary award in the landlord's favour for \$2,250.00.

As the landlord was successful in their application they are entitled to recover the filing fee for this application from the tenant.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,975.00, allowing for recovery of the unpaid rent and filing fees and to retain the security deposit for the tenancy. 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: April 29, 2021

Residential Tenancy Branch