



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

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed testimony. The tenant did not attend or submit any documentary evidence.

The landlord was advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The landlord stated that the tenant was served the notice of hearing package after receiving an order for substitute service decision authorizing service via email on March 3, 2021 and has submitted a copy of an email dated March 16, 2021 to the approved email address as proof of service. The email refers to the attached documents which consists of the Notice of Hearing Package, Interim Decision, Respondent Instructions, Dispute Resolution Process Fact Sheet and the Substitute Service Decision.

The landlord also stated that prior to moving out on January 26, 2021 the tenant was served with the submitted documentary evidence via Canada Post Registered Mail on January 23, 2021.

I accept the undisputed evidence of the landlord and find that the landlord has sufficiently served the tenant with the notice of hearing package via email as ordered and is deemed served as per section 90 of the Act. I also find that the tenant was sufficiently served with the submitted documentary evidence and is deemed served as per section 90 of the Act.

At the outset, the landlord confirmed that the tenant had vacated the rental unit on January 26, 2021 and as such no longer requires an order of possession. As such, no further action is required for this portion of the application.

Issue(s) to be Decided

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

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on August 1, 2020 on a fixed term tenancy ending on July 31, 2021 as per the submitted copy of the signed tenancy agreement dated July 12, 2020. The monthly rent is \$2,250.00 payable on the 15th day of each month. A security deposit of \$1,125.00 was paid.

The landlord stated that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated January 16, 2021 by posting it to the rental unit door on January 16, 2021. The 10 Day Notice sets out an effective end of tenancy date of January 25, 2021 and that the tenant failed to pay rent of \$2,250.00 that was due on January 15, 2021.

The landlord stated that the tenant failed to pay rent for January 2021 of \$2,250.00. The landlord provided written details which stated that the tenant said, "he cannot pay the rent". The landlord confirmed that since the 10 Day Notice dated January 16, 2021 was served, no rent has been paid by the tenant.

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.

In this case, the landlord provided undisputed testimony that the tenant was served with a 10 Day Notice dated January 16, 2021 for unpaid rent of \$2,250.00 by posting it to the rental unit door on January 16, 2021. The monthly rent was due on January 15, 2021 and the landlord has provided undisputed testimony that no rent was paid since this notice was served. On this basis, I find that the landlord has established a claim for unpaid rent of \$2,250.00.

The landlord having been successful is entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted a monetary order for \$2,350.00.

This order must be served upon the tenant. Should the tenant fail to comply with this order, the 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: May 11, 2021

Residential Tenancy Branch