



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR, OLC, FFT, OPC, OPR, MNRL-S, FFL

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67.
- authorization to retain the tenant’s security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant requested:

- cancellation of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlords’ 1 Month Notice to End Tenancy for Landlord’s Use of Property (“ 1 Month Notice”), pursuant to section 47;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The landlord gave sworn testimony that counter filed in response to the tenants application of March 15, 2021; on April 16, 2021 copies of the Application for Dispute Resolution hearing package ('Application') and evidence were served to the tenant by registered mail. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with copies of the landlords' application and evidence on April 21, 2021.

The landlord provided undisputed testimony that the tenant was served with the 10 Day Notice, on March 3, 2021 by way of registered mail. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on March 8, 2021, five days after posting.

At the outset of the hearing the landlord advised that the tenant moved out on May 18, 2021 and returned the keys. The landlord advised that she no longer needs an order of possession, accordingly; I dismiss that portion of the landlord's application.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?

Is the landlord entitled to retain the tenant's security deposit in partial satisfaction of the monetary order requested?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord gave the following undisputed testimony. The tenancy began on February 1, 2019. The rent of \$1790.00 was due on the first of each month. The landlord testified that the tenant paid a security deposit of \$895.00 which the landlord still holds. The landlord testified that the tenant had an outstanding balance of \$200.61 for the rent for March 2021 and on March 3, 2021 the landlord served the tenant with 10 Day Notice to

End Tenancy for Unpaid Rent or Utilities. The landlord testified that the tenant did not pay the rent for April or May as well. The landlord also gave the tenant a demand letter on February 14, 2021 for unpaid utilities for \$185.86.

Item	Amount
Unpaid Rent for March 2021	\$200.61
Unpaid Rent for April 2021	1790.00
Unpaid Rent for May 2021	1790.00
Unpaid Utilities	185.56
Filing Fee	100.00
Total Monetary Order Requested	\$4066.17

Analysis

As the tenant chose not to participate in today's hearing, I hereby dismiss their application in its entirety without leave to reapply.

The landlord provided undisputed evidence that the tenant failed to pay the rent in full for the months of March 2021 through May 2021. The landlord also provided sufficient evidence to support their claim of unpaid utilities.

The landlords continue to hold the tenant's security deposit in the amount of \$895.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenant's security deposit in partial satisfaction of the monetary claim.

I find that the landlords are entitled to recovery the \$100.00 filing fee from the tenant.

The landlord has been fully successful in their entire application for an award of \$4066.17.

Conclusion

The landlord has established a claim for \$4066.17. I order that the landlord retain the \$895.00 deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$3171.17. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant's application is dismissed in its entirety without leave to reapply.

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: June 18, 2021

Residential Tenancy Branch