



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes**      MNR-DR, OPR-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 non-payment of rent pursuant to section 55;
- a monetary order for unpaid rent in the amount of \$7,707.24 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

This matter was reconvened from a *ex parte* direct request application by way of an interim decision dated May 18, 2021 (the "**Interim Decision**").

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:20 am in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 am. The landlord's property manager ("**RS**") 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 RS and I were the only ones who had called into this teleconference.

RS testified she served that the tenant with the Interim Decision, notice of reconvened hearing, and supporting evidence package via registered mail on May 21, 2021. She provided a Canada Post tracking number confirming this mailing which is reproduced on the cover of this decision. The tenant is deemed served with this package on May 26, 2021, five days after RS mailed it, in accordance with sections 88, 89, and 90 of the Act.

### **Preliminary Issue – Tenant Vacated Rental Unit**

At the outset of the hearing, RS testified that the tenant abandoned the rental unit without notice to the landlord. He did not leave a forwarding address. She testified that the tenant's neighbours alerted her to the tenant's departure and that she attended the rental unit on July 5, 2021 to confirm. She secured new renters for the rental unit as of August 1, 2021. RS stated that the landlord no longer requires an order of possession. Accordingly, I dismiss this portion of the landlord's application without leave to reapply.

### **Preliminary Issue – Amendment of Monetary Claim**

At the hearing the landlord sought to amend the application to include a claim for May, June, and July rent which she testified remains outstanding.

Additionally, she sought to amend the application to include a monetary claim to recover the cost of cleaning the rental unit carpets (which the tenant did not clean at the end of the tenancy).

Rule of Procedure 4.2 states:

#### **4.2 Amending an application at the hearing**

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

In this case, the landlord is seeking compensation for unpaid rent that has increased since it first applied for dispute resolution. I find that the increase in the landlord's monetary claim for additional rent arrears could have been reasonably anticipated by the tenant. Therefore, pursuant to Rule 4.2, I order that the application be amended to include a claim for May, June, and July 2021 rent (\$3,780).

I do not find that the landlord's amendment to recover carpet cleaning costs could have been reasonably anticipated by the tenant. As such, I decline to amend the application to include this claim.

### **Issues to be Decided**

Is the landlord entitled to:

- 1) a monetary order for \$11,487.24; and
- 2) recover the filing fee;

### **Background and Evidence**

While I have considered the documentary evidence and the testimony of RS, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of RS's claims and my findings are set out below.

The tenant and the prior owner of the rental unit ("**NPR**") entered into a written, fixed term tenancy agreement starting September 1, 2019 and ending August 31, 2020.

Monthly rent is \$1,260 and is payable on the first of each month. The tenant paid NPR security deposit of \$625, which the landlord still retains. On November 1, 2020, the landlord acquired the rental unit from NPR, pursuant to an “arrangement agreement” made February 19, 2020.

RS testified that the first page of the tenancy agreement includes the incorrect address of the rental unit. She testified that it was filled using an “auto-complete” function, which cause an address in a different city to appear in the field labelled “building address”. She testified that the correct address of the rental unit is listed on an addendum to the tenancy agreement. This is the same address that is listed on the application and a 10-day notice to end tenancy for non-payment of rent that the landlord submitted into evidence.

RS testified that the tenant has not paid any part of the rent he was obligated by the tenancy agreement to pay since the landlord took over the rental unit. She testified that as of October 31, 2020, the tenant had a \$7.76 credit on his rental account. She testified that he has not paid any rent from November 1, 2021 to July 1, 2021 (inclusive). As such, she calculates his arrears owed as follows:

Date	Owed	Paid	Balance
01-Nov-20	\$1,260.00		\$1,260.00
01-Nov-20		\$7.76	\$1,252.24
01-Dec-20	\$1,260.00		\$2,512.24
01-Jan-21	\$1,260.00		\$3,772.24
01-Feb-21	\$1,260.00		\$5,032.24
01-Mar-21	\$1,260.00		\$6,292.24
01-Apr-21	\$1,260.00		\$7,552.24
01-May-21	\$1,260.00		\$8,812.24
01-Jun-21	\$1,260.00		\$10,072.24
01-Jul-21	\$1,260.00		\$11,332.24
<b>Total</b>			<b>\$11,332.24</b>

I am unsure why this amount differs from the amount sought on the application, which, accounting for the amendment above, is \$11,487.24.

### **Analysis**

I accept RS’s undisputed testimony in its entirety. I accept that the landlord assumed control of the rental unit from NPR as of November 1, 2020. I accept that the tenancy agreement misstates the rental unit’s address on the first page, and that the correct address appears in an addendum.

I find that the tenant has failed to pay rent for the months of November 2020 to July 2021, inclusive, in the amount of \$11,332.24. As such, I order that he pay the landlord this amount.

Pursuant to section 72(1) of the Act, as the landlord has been successful in the application, they may recover their filing fee from the tenant.

Pursuant to section 72(2) of the Act, the landlord may retain the security deposit in partial satisfaction of the monetary orders made above.

### **Conclusion**

Pursuant to sections 67 and 72 of the Act, I order that the tenant pay the landlord \$10,807.24, representing the following:

Description	Amount
Rental Arrears	\$11,332.24
Filing Fee	\$100.00
Deposit Credit	-\$625.00
<b>Total</b>	<b>\$10,807.24</b>

I order the landlord to serve the tenant with a copy of this decision and attached monetary order. As the tenant did not leave a forwarding address, pursuant to section 71(1) of the Act, the landlord may serve the tenants this decision and attached order via email (address on cover of this decision). RS testified that NPR obtained the tenant's email address from him at the start of the COVID-19 pandemic (March 2020) so as to be able to provide regular updates to him about the pandemic and how it was impacting the tenancy.

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: September 17, 2021

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Residential Tenancy Branch