



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding XL Properties Ltd. c/o Bayside Property
Services and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNRL-S, FFL

Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause; a monetary order for unpaid rent or utilities; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony, and was accompanied by a 2nd agent of the landlord, who did not testify or take part in the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord's agent advised that the tenant was served with notice of this hearing (the hearing package) by registered mail on August 13, 2021 and has provided a copy of the registered mail package bearing that date by Canada Post, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent (hereafter referred to as the landlord) testified that this fixed-term tenancy began on December 15, 2015 and reverted to a month-to-month tenancy after June 30, 2016, and the tenant still resides in the rental unit. Rent in the amount of \$750.00 was originally payable on the 1st day of each month, which was raised from time to time during the tenancy and is now \$849.00 per month. Copies of Notices of Rent Increase have also been provided for this hearing. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$375.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment in a 2-story complex, and a copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that on July 7, 2021 the tenant was served with a One Month Notice to End Tenancy for Cause by registered mail, and a copy has been provided for this hearing. It is dated July 7, 2021 and contains an effective date of vacancy of August 31, 2021. The reason for issuing it states: "Tenant is repeatedly late paying rent." The landlord has also provided a copy of an envelope with a registered mail stamp dated July 7, 2021 by Canada Post, as well as a tenant ledger.

The tenant had arranged for rent to be paid by Employment Assistance who paid the \$828.00 rent, but despite being urged by the landlord to have it increased by \$21.00 in accordance with the latest rent increase, the tenant was in arrears that amount. The tenant was also provided with demand letters by the landlord to pay the increase and to continue to pay the increase each month going forward. The tenant paid the arrears but then continued to pay \$828.00 and fell into arrears again by \$21.00 each month, and is currently in arrears \$21.00.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice, and the landlord seeks an Order of Possession, a monetary order in the amount of \$21.00, recovery of the \$100.00 filing fee, and an order permitting the landlord to keep \$121.00 from the security deposit.

Analysis

Firstly, where a tenant is served with a One Month Notice to End Tenancy for Cause, the tenant has 10 days to dispute it by filing an Application for Dispute Resolution and serving the landlord. If the tenant fails to do so, the tenant is conclusively presumed to

have accepted the end of the tenancy. In this case, the landlord testified that the tenant has not served the landlord, and I have no such application before me. I have reviewed the Notice, and I find that it is in the approved form and contains information required by the *Residential Tenancy Act*. Therefore, I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Considering the testimony of the landlord and the tenant ledgers and letters provided for this hearing, I am satisfied that the tenant is currently in arrears of rent the sum of \$21.00, and I find that the landlord has established a claim in that amount.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee.

I order that the landlord keep \$121.00 of the \$375.00 security deposit held in trust as full recovery of the unpaid rent and the filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further order that the landlord keep \$121.00 from the \$375.00 security deposit in full satisfaction of the unpaid rent and recovery of the filing fee.

This order is final and binding and may be enforced.

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: November 25, 2021

Residential Tenancy Branch