



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **OPC, FFL**

### Introduction

This hearing dealt with two applications by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for possession under a One Month Notice to End Tenancy for Cause ("One Month Notice") pursuant to sections 47 and 55;
- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fees for the applications pursuant to section 72.

RC and JC attended for the landlord ("the landlord"). The landlord had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 20 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

*Service of Documents*

As the tenant did not attend the hearing, the landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on September 23, 2021 and deemed received by the tenant under section 90 of the *Act* five days later, that is, on September 28, 2021.

The landlord provided the Canada Post Tracking Number and a copy of receipt in support of service. Further to the landlord's testimony and supporting documents, I find the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution on September 28, 2021 pursuant to sections 89 and 90.

*Preliminary Issue: Amendment re Security deposit*

The landlord requested an amendment to the landlord's application to request that the landlord be authorized to apply the remainder of the security deposit of \$351.75 held by the landlord to any monetary award granted pursuant to section 72.

The landlord testified as follows. The tenant paid the landlord a security deposit of \$625.00 at the start of the tenancy. The tenant gave the landlord permission to retain part of the security deposit; the landlord holds the balance of \$351.75.

Section 4.2 of the Rules of Procedure provides that a landlord's monetary claim may be amended at the hearing in circumstances that can reasonably be anticipated.

I find the tenant could reasonably anticipate the landlord's claim would be amended to include a request authorizing the landlord to apply the security deposit to a monetary award for outstanding rent. The amendment would not be prejudicial to the respondent.

Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the landlord's applications to allow the landlord to request that the balance of the security deposit of \$351.75 be applied to any monetary award.

*Preliminary Issue – Tenant Vacated*

The landlord testified the tenant vacated the unit on August 27, 2021. Accordingly, the landlord withdrew the request for an Order of Possession and reimbursement of the filing fee with respect to that claim.

As no evidence was submitted with respect to the request for the Order of Possession, that claim and the request for reimbursement of the filing fee is dismissed without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to the relief requested?

Background and Evidence

The landlord submitted a copy of the tenancy agreement and summarized the background of the tenancy as follows:

INFORMATION	DETAILS
Date of beginning	Jun 2, 2021
Date of ending	August 27, 2021
Monthly rent	\$1,600.00
Security deposit	\$625.00 (Balance \$351.75)
Date of landlord Application	September 9, 2021

The landlord testified the tenant vacated the unit August 27, 2021 and a balance of \$1,600.00 remains owing for outstanding rent.

The landlord requested the following Monetary Order:

ITEM	AMOUNT
Reimbursement filing fee	\$100.00
Rent outstanding	\$1,600.00
(Less security deposit)	(\$351.75)
<b>TOTAL CLAIM</b>	<b>\$1,348.25</b>

### Analysis

The landlord provided undisputed evidence at this hearing as the tenant did not attend.

I have reviewed all documentary evidence and testimony.

I find the tenant did not pay the overdue rent and that rent in the amount of \$1,600.00 is owing the landlord. I accept the landlord's evidence in this regard.

Based on the uncontradicted evidence of the landlord, I find the landlord is entitled to a monetary award pursuant to section 67 in the amount of \$1,600.00 for unpaid rent.

As the landlord was successful in this application, I award the landlord reimbursement of the \$100.00 filing fee.

Pursuant to section 72, I authorize the landlord to retain the balance of the security deposit of \$351.75 in partial satisfaction of the monetary award.

In conclusion, I grant the landlord a monetary award in the amount of \$1,348.25 calculated as follows:

ITEM	AMOUNT
Reimbursement filing fee	\$100.00
Rent outstanding	\$1,600.00
(Less security deposit)	(\$351.75)
<b>TOTAL ORDER</b>	<b>\$1,348.25</b>

Conclusion

I grant the landlord a monetary award in the amount of \$1,348.25

This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) and be 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: November 05, 2021

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Residential Tenancy Branch