



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNRL-S, FFL

Introduction

This hearing dealt with the adjourned Direct Request Application by the Landlord filed under the Residential Tenancy Act (the “*Act*”) for an order of possession to enforce a 10-Day Notice for Unpaid Rent and Utilities (the 10-Day Notice) issued on July 8, 2021, for an order of possession to enforce a One-Month Notice for Cause (the One-month Notice) issued on July 8, 2021, for a monetary order for unpaid rent, for permission to retain the security deposit, and to recover the filing fee paid for this application. The matter was set for a conference call.

The Landlord’s Agent (the “Landlord”) attended the hearing and was affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. Section 59 of the *Act* states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that they served the Tenant with the Notice of Hearing documents by Canada Post registered mail sent on August 26, 2021, providing a tracking number as proof of service. Pursuant to section 90 of the *Act*, documents served in this manner are deemed received five days later. Therefore, I find that the Tenant had been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present her evidence orally and in written and documentary form and to make submissions at the hearing. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to an order of possession pursuant to section 46 of the *Act*?
- Is the Landlord entitled to an order of possession pursuant to section 47 of the *Act*?
- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to retain the security and pet damage deposits for this tenancy?
- Is the Landlord entitled to the return of their filing fee?

Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Landlord testified that there had been a signed tenancy agreement for this tenancy but that the document had been lost. The Landlord testified that this tenancy began in April 2019, that rent in the amount of \$2,400.00 was to be paid by the first day of each month, and that they are holding a \$1,200.00 security deposit and a \$200.00 pet damage deposit.

The Landlord testified that the Tenant vacated the rental unit on September 11, 2021, and that they no longer require an order of possession for this rental unit.

The Landlord testified that as of the date of this hearing, the Tenant was outstanding \$8,400.00 in rent, consisting of \$2,400.00 in rent for May 2021, \$2,400.00 in rent for July 2021, \$2,400.00 in rent for August 2021 and \$1,000.00 in rent for September 2021. The Landlord testified that they are requesting a Monetary Ordre for the outstanding rent for this tenancy.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the testimony of the Landlord that this tenancy ended when the Tenant moved out of the rental unit on September 11, 2021. As this tenancy has already ended, I find that there is no requirement for an Order of Possession. Therefore, I dismiss the Landlord's application for an Order of Possession of the rental unit.

I accept the testimony of the Landlord that the Tenant has not paid the outstanding rent for May, July, August, and September 2021, for this tenancy. I find that the Landlord has proven their entitlement to a monetary award in the amount of \$8,400.00 in outstanding rent. I grant the Landlord permission to retain the security deposit and pet damage deposit in partial satisfaction of this award.

Additionally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has been successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for their application.

I grant the Landlord a monetary order in the amount of \$7,100.00; consisting of \$8,400.00 in unpaid rent, \$100.00 for the recovery of the filing fee, less the security deposit of \$1,200.00 and the pet damage deposit of \$200.00 that the Landlord is holding for this tenancy.

Conclusion

I grant the Landlord a **Monetary Order** in the amount of **\$7,100.00**. The Landlord is provided with this Order in the above terms, and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this 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: December 7, 2021

Residential Tenancy Branch