



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, reconvened from an *ex parte* Direct Request proceeding, dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord AS (the "landlord") attended, confirmed they represented both named applicants, and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the notice of hearing and all materials by leaving a copy at the tenant's residence with an adult who resides with the tenant and subsequently by leaving a copy with the tenant. The landlord provided undisputed testimony as well as a signed Proof of Service form. Based on the evidence I find the tenant duly served with the landlord's materials in accordance with section 89(1) of the Act.

At the outset of the hearing the landlord said the tenant has vacated the rental unit and withdrew the portion of their application seeking an Order of Possession.

The landlord said that since the application was filed additional rent has come due and they requested to amend the monetary amount of their claim. As additional rent coming due over time is reasonably foreseeable, pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlords' Application to increase the landlords' monetary claim from \$4,650.00 to \$14,150.00.

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?

Are the landlords entitled to recover their filing fee from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The landlord provided undisputed evidence regarding the following facts. This tenancy began in March 2020. Monthly rent is \$1,900.00 payable on the first of each month. A security deposit of \$800.00 was collected at the start of the tenancy and is still held by the landlord.

The tenant failed to pay full rent as required under the tenancy agreement on May 1, 2021 providing only \$1,050.00. The tenant has failed to pay any subsequent rent and there is an arrear for this tenancy of \$14,150.00 as at the date of the hearing. The tenant occupied the rental unit until vacating without notice in December 2021.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has

been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I find that the tenant was obligated to pay monthly rent in the amount of \$1,900.00 on the first of each month pursuant to the signed tenancy agreement. I accept the undisputed evidence of the landlord that the tenant failed to pay the full rent as required on May 1, 2021 and no rent for the subsequent months of June, July, August, September, October, November and December 2021. I accept the evidence that there is a rental arrear of \$14,150.00 as at the date of the hearing December 30, 2021.

Accordingly, I issue a monetary award in the landlords' favour in that amount.

As the landlords were successful in their application they are entitled to recover their filing fee from the tenant.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlords to retain the tenant's security deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$13,450.00. 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 30, 2021

Residential Tenancy Branch