



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CBT HOLDINGS LTD ACDONALD COMMERCIAL R.E.S.
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-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 unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The landlord made an application through the Direct Request Process where it was determined by the adjudicator that a participatory hearing was necessary and adjourned to today's date. The tenant did not attend this hearing, although I waited until 9:40 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlords agent entered written evidence and sworn testimony that he served the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice by registered mail on June 15, 2021. I am satisfied that the landlord's agent served this Notice to the tenant in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenant on June 20, 2021, the fifth day after mailing.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on October 7, 2021. The landlord entered into written evidence copies of the Canada Post Tracking Numbers. In accordance with sections 89 and 90 of the *Act*, I am satisfied

that the tenant was deemed served with the landlord's dispute resolution hearing package on October 12, 2021, five days after mailing.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The agent gave the following undisputed testimony. The tenancy began on or about May 15, 2018. Rent in the amount of \$1400.00 is payable in advance on the first day of each month. The tenant paid a security deposit of \$675.00 which the landlord still holds. The tenant failed to pay rent in the month(s) of March – June 2021 and on June 15, 2021 the landlord served the tenant with a notice to end tenancy. The agent testified that the tenant made some small partial payments but never caught up or paid the full amount within the legislated time. The agent advised that as of today's hearing the tenant owes the landlord \$5600.00 in unpaid rent. The agent further advised that the tenant moved out without notice sometime in mid December 2021.

Analysis

As the tenant no longer lives in the unit and the landlord has taken back possession of the suite, an order of possession is no longer required, accordingly; I dismiss that portion of the landlord's application.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenant continues to owe the landlord unpaid rent. Although the landlord has not applied to retain the \$675.00 security deposit, using the offsetting provision under Section 72 of the Act, I hereby apply the security deposit against the \$5600.00 of unpaid rent. The landlord is also entitled to the recovery of the \$100.00 fee for this hearing.

Conclusion

The landlord has established a claim for \$5700.00. I order that the landlord retain the \$675.00 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$5025.00. This order may be filed in the Small Claims 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: January 17, 2022

Residential Tenancy Branch