



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, MNDCT, FFT, OPR-DR, MNR-DR

Introduction

This hearing was convened in response to an application and amended application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied for:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order for the Landlord’s compliance - Section 62;
3. A Monetary Order for compensation or loss - Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord applied for:

1. An Order of Possession - Section 55; and
2. A Monetary Order for unpaid rent or utilities - Section 67.

The Tenant did not attend the hearing to pursue their application and as a result I dismiss their application. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matters

The Landlord served the Tenant with the Landlord’s application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) to the Tenant’s email on October 21, 2021. Prior to this date on October 15, 2021, the Tenant had served the Landlord by email with the Tenant’s Hearing Package. Throughout the tenancy the

Parties communicated through the same email addresses. The Tenant also used the same email address on November 3, 2021, to communicate with the Landlord.

Section 71(2)(c) of the Act provides that the director may order that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act. Given the Landlord's undisputed evidence of the use of email by the Tenant for service on the Landlord, the recency of the emails between the Parties and the mutual use of the email addresses by the Parties throughout the tenancy I find that the Landlord's Hearing Package has been sufficiently served for the purposes of the Act.

The Landlord confirms that the Tenant moved out of the unit on October 31, 2021, and that the Landlord no longer requires an order of possession for the unit.

Issue(s) to be Decided

Is the Landlord entitled to the unpaid rent claimed?

Background and Evidence

The tenancy under written agreement started on September 1, 2021. Rent of \$1,700.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected and still holds a security deposit of \$850.00. The Tenant failed to pay rent for October 2021 and the Landlord claims \$1,700.00.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Based on the Landlord's undisputed evidence of the terms of the tenancy agreement and the unpaid rent I find that the Landlord has substantiated an entitlement to unpaid rent of **\$1,700.00** for

October 2021. Deducting the security deposit plus zero interest of **\$850.00** from this amount leaves **\$850.00** owed to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of \$850.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$850.00**. If necessary, 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 Act.

Dated: February 15, 2022

Residential Tenancy Branch