



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

Landlord's application: OPR-DR, MNR-DR, FFL  
Tenant's application: CNR OLC LRE LAT

### **Introduction**

This hearing was convened as a result of an Application for Dispute Resolution (application) by both parties seeking remedy under the *Residential Tenancy Act* (Act). The landlord applied for an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice), for a monetary order in the amount of \$3,800.00 for unpaid rent or utilities and to recover the cost of the filing fee. The tenant applied to cancel the 10 Day Notice, for an order directing the landlord to comply with the Act, regulation or tenancy agreement, for an order to suspend or set conditions on the landlord's right to enter the rental unit, site or property, and for authorization to change the rental unit locks.

The landlord and an articulated student for the landlord, SP (SP) attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord and SP were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, the tenant was provided the Notice of a Dispute Resolution Proceeding dated October 7, 2021 (Notice of Hearing) after filing their application on October 1, 2021. The tenant did not attend the hearing which lasted a total of 18 minutes. After the 10-minute waiting period and given that the tenant did not attend the hearing, the tenant's application was dismissed without leave to reapply as the respondent landlord did attend the hearing was ready to proceed. This decision is in accordance with Rule 7.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules).

Section 51(1.1) of the Act applies and states:

- (1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, **the director must grant an order requiring the payment of the unpaid rent.**

Given the above, I will address section 51(1.1) of the Act further below.

### Preliminary and Procedural Matters

The landlord and SP were informed at the start of the hearing that recording of the dispute resolution is prohibited under the RTB Rule 6.11. The landlord and SP were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the landlord and SP were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The landlord and SP did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlord confirmed their email address at the outset of the hearing. The decision and any applicable orders will be emailed to the landlord and the decision will be emailed to the tenant also at the email address provided in their application.

### Issues to be Decided

- As the tenant's application to cancel the 10 Day Notice was dismissed how much unpaid rent is owed to the landlord pursuant to section 51(1.1) of the Act?
- Is the landlord entitled to the filing fee under the Act?

### Background and Evidence

Firstly, a previous decision dated was presented. The file number has been included on the style of cause for ease of reference (Previous Decision). In the Previous Decision, the tenant ended on September 1, 2021 by way of an undisputed 2 Month Notice. Therefore the landlord does not require an order of possession.

The landlord stated that August 2021 rent was given to the tenant as compensation for the 2 Month Notice but that the tenant overheld the rental unit for September 2021 and a majority of October 2021 and is therefore seeking \$1,800.00 in the unpaid rent/loss of rent for a total of \$3,600.00 plus the \$100.00 filing fee.

I find the tenant breached the Act by failing to compensate the landlord for rent for September 2021 and October 2021 and I grant the landlord **\$3,600.00** as claimed.

I grant the landlord the **\$100.00** filing fee pursuant to section 72 of the Act.

As a result, I find the landlord's application is successful in the amount of \$3,700.00. As no security deposit or pet damage deposit was paid according to the landlord, I grant the landlord a monetary order pursuant to section 67 of the Act, for the amount owing by the tenant to the landlord in the amount of **\$3,700.00** as claimed.

The landlord wanted the tenant to be aware that the landlord is holding the tenant's personal belongings for the time period required under the Regulations and encourages the tenant to contact the landlord at either their phone number or email address, both of which are on the style of cause of ease of reference.

### Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's application is successful.

The landlord has established a total monetary claim of \$3,700.00 as described above. The landlord has been granted a monetary order pursuant to section 67 of the Act, for the amount owing by the tenant to the landlord in the amount of \$3,700.00.

The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

The tenant is reminded that the landlord is holding the tenant's personal belongings for the time period required under the Regulations and encourages the tenant to contact the landlord at either their phone number or email address, both of which are on the style of cause of ease of reference.

The tenant can be liable for all costs related to enforcing the monetary order. This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 11, 2022