



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METCAP LIVING MANAGEMENT
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL-S, FFL

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order of \$773.77 for unpaid rent, pursuant to section 67;
- authorization to retain the tenant's security and pet damage deposits (collectively "deposits"), pursuant to section 38; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord's two agents, "landlord LM" and "landlord TO," and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 80 minutes.

This hearing began at 9:30 a.m. with me, landlord LM and the tenant present. Landlord LM requested that landlord TO join the hearing to participate in this settlement agreement. Landlord TO called into this hearing at 10:15 a.m. This hearing ended at 10:50 a.m.

All hearing participants confirmed their names and spelling. Landlord LM and the tenant provided their email addresses for me to send this decision to both parties after the hearing.

Landlord LM stated that she is a paralegal, employed by the landlord company ("landlord") named in this application. She claimed that she had permission to

represent the landlord at this hearing. She said that the landlord owns the rental unit. She confirmed the rental unit address.

Landlord TO stated that he is the site manager for the landlord. Landlord LM stated that landlord TO had permission to represent the landlord at this hearing.

During this hearing, I informed both parties that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure*. Landlord LM, landlord TO, and the tenant all separately affirmed, under oath, that they would not record this hearing.

During this hearing, I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. Both parties had an opportunity to ask questions, which I answered. I informed both parties that I could not provide legal advice to them. Neither party made any adjournment or accommodation requests. Both parties affirmed that they were ready to proceed with this hearing and they wanted to settle this application.

Settlement Terms

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute, except for the filing fee.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, except for the filing fee:

1. Both parties agreed that this tenancy will continue until it is ended in accordance with the *Act*;
2. The landlord agreed that the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated November 4, 2021, is cancelled and of no force or effect;
3. Both parties agreed to meet to discuss and attempt to settle any issues regarding unpaid rent from April 2020, at a date and time to be agreed upon by both parties after the hearing;

4. The landlord agreed to reapply at the RTB for a monetary order for any unpaid rent from April 2020, if both parties are unable to settle this issue, as per condition #3 above;
5. The landlord agreed that this settlement agreement constitutes a final and binding resolution of its application at this hearing, except for the filing fee.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties, except for the filing fee. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute, except for the filing fee.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 80-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. Both parties affirmed that they fully understood the above settlement terms and were agreeable to them.

Landlord LM was given ample and additional time during this hearing, to repeatedly call landlord TO on the phone and speak to him privately. Landlord LM and landlord TO were given ample and additional time during this hearing to speak privately, and to think about, review, and discuss the terms of this settlement agreement. Landlord LM and landlord TO affirmed that they had permission to make this settlement agreement on behalf of the landlord.

Filing Fee

Both parties were unable to settle the landlord's application to recover the \$100.00 filing fee. Landlord LM asked that I make a decision about it.

The filing fee is a discretionary award usually issued by an Arbitrator after a full hearing on the merits of the applicant's application and a decision is made, where the applicant is successful. Both parties settled this application, and I was not required to conduct a full hearing or make a decision on the merits of the landlord's application.

Accordingly, I dismiss the landlord's application to recover the \$100.00 filing fee, without leave to reapply. I informed the landlord's two agents about my decision and the above information during this hearing. They confirmed their understanding of same.

Conclusion

I order both parties to comply with all of the above settlement terms.

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlord's application for a monetary order for unpaid rent of \$773.77 and to retain the tenant's deposits are dismissed with leave to reapply.

The landlord's 10 Day Notice, dated November 4, 2021, is cancelled and of no force or effect. The landlord is not issued an order of possession. This tenancy continues until it is ended in accordance with the *Act*.

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: March 22, 2022

Residential Tenancy Branch