



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL-S, MNDCL-S, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. On February 15, 2022 the Landlord applied for:

- an order of possession for the rental unit, having issued a 10 Day Notice to End Tenancy, dated January 20, 2022 (the 10 Day Notice);
- a monetary order for unpaid rent, requesting to retain a security and/or pet damage deposit;
- compensation for monetary loss or other money owed, requesting to retain a security and/or pet damage deposit; and
- the filing fee.

Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Landlord testified they served the Notice of Dispute Resolution Proceeding (NDRP) and evidence on the Tenant by registered mail on February 22, 2022. The Tenant confirmed she received the Landlord's documents, and that the Tenant did not serve responsive evidence. As the Landlord did not serve the document Monetary_Order_Worksheet_Updated.pdf on the Tenant, I advised the parties I would not be considering it in my decision.

Issues to be Decided

- 1) Is the Landlord entitled to an order of possession?
- 2) Is the Landlord entitled to a monetary order for unpaid rent?
- 3) Is the Landlord entitled to monetary compensation for loss or other money owed?
- 4) Is the Landlord entitled to the filing fee?

Background and Evidence

The parties agreed on the following particulars regarding the tenancy. It began May 1, 2020; rent is \$1,705.20.00, due on the first of the month; and the Tenant paid a security deposit of \$840.00, which the Landlord still holds.

A copy of the 10 Day Notice is submitted as evidence. It is signed and dated by the Landlord, gives the address of the rental unit, states an effective date, states the grounds for ending the tenancy, and is in the approved form.

The Landlord testified the 10 Day Notice was served on the Tenant by posting it to the door on January 20, 2022; a witnessed proof of service form was submitted as evidence. The Tenant testified that she could not recall when she received the 10 Day Notice, and confirmed she did not dispute the Notice.

The reason indicated on page 2 of the 10 Day Notice is that the Tenant has failed to pay rent in the amount of \$2,585.20, due on January 1, 2022.

The Landlord and Tenant agreed that rent increased in January 2022 and that the Tenant owes rent as follows:

Month	Rent	Rent paid	Monthly outstanding
Credit balance			-630.79
December 2021	\$1,680.00	\$0.00	\$1,680.00
January 2022	\$1,705.20	\$0.00	\$1,705.20
February 2022	\$1,705.20	\$1,200.00	\$505.20
March 2022	\$1,705.20	\$0.00	\$1,705.20
April 2022	\$1,705.20	\$0.00	\$1,705.20
May 2022	\$1,705.20	\$0.00	\$1,705.20
Total			\$8,375.21

A ledger is submitted in support, showing the Tenant's charges and payments to February 11, 2022.

The Landlord testified they were seeking compensation in the amount of \$2.26 because the Tenant used "Tenant Pay" to make two payments in February 2022, resulting in two charges of \$1.13 to the Landlord. The Tenant agreed the Landlord was entitled to recover this amount.

The Tenant testified that she left her belongings behind in the rental unit after experiencing domestic violence, has not returned to the unit, and that an occupant may still reside in the rental unit.

Analysis

Section 46(4) of the Act provides that upon receipt of a 10 Day Notice, the tenant may, within 5 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I find that the 10 Day Notice is deemed received by the Tenant on January 23, 2022, three days after posting, in accordance with sections 88 and 90 of the Act.

I find that the Landlord's 10 Day Notice meets the form and content requirements of section 52 of the Act, as it is signed and dated by the Landlord, gives the address of the rental unit, states an effective date of the notice, states the reasons for ending the tenancy, and is in the approved form.

I find that the Tenant has failed to file an application for dispute resolution within 5 days of January 23, 2022, the timeline granted under section 46(4) of the Act. Accordingly, I find that the Tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ends on the corrected effective date of the 10 Day Notice, February 2, 2022, and must vacate the rental unit.

In accordance with section 55 of the Act, I find that the Landlord is entitled to an order of possession and a monetary award for outstanding rent in the amount of \$8,375.21.

As the Tenant's belongings are still in the rental unit, I order that in accordance with section 68(2)(a) of the Act, the tenancy ended on the date of the hearing, May 24, 2022.

The Tenant agreed the Landlord is entitled to compensation for the \$2.26 the Landlord incurred by the Tenant's two uses of "Tenant Pay" in February 2022.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord is successful in their application, I

order the Tenant to pay the \$100.00 filing fee the Landlord paid to apply for dispute resolution.

In accordance with section 72 of the Act, I allow the Landlord to retain \$840.00 of the Tenant's security deposit in partial satisfaction of the amounts owing.

I find the Landlord is entitled to a monetary order for \$7,637.47, as follows:

Outstanding rent	\$8,375.21
Monetary compensation	\$2.26
Filing fee	\$100.00
Security deposit	-\$840.00
Owed to Landlord	\$7,637.47

Conclusion

The Landlord's application is granted.

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenant.

The Landlord is granted a monetary order in the amount of \$7,637.47.

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: May 26, 2022

Residential Tenancy Branch