



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlord: OPR-DR OPC MNR-DR FFL
For the tenant: CNC-MT CNR-MT FFT

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 for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee. The tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) and for more time to make that application, to cancel a 1 Month Notice to End Tenancy for Cause (1 Month Notice) and for more time to make that application and to recover the filing fee.

The landlord and the spouse of the landlord, CS (spouse) attended the teleconference hearing and were affirmed. The tenant did not attend the hearing. The tenant was provided the Notice of a Dispute Resolution Hearing dated March 24, 2022 (Notice of Hearing) after filing their application. After the mandatory 10-minute waiting period, the tenant's **application was dismissed in full, without leave to reapply**, as the tenant failed to attend the hearing to present the merits of their application.

The landlord testified that they served the tenant with the Notice of Hearing and Application for Dispute Resolution Hearing dated on March 24, 2022 (Package) by registered mail on March 25, 2022. Section 90 of the Act states that documents served via registered mail are deemed served 5 days after they are mailed. Therefore, I find the tenant was deemed served as of March 30, 2022. As the tenant failed to attend the hearing, I consider this matter undisputed pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1, 7.3 and 7.4. I have reviewed all oral and written evidence before me that met the requirements of the

RTB Rules. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The landlord confirmed their email address and the tenant's email address was provided in the tenant's application. As a result, the decision will be emailed to both parties. The tenant's email address has been included on the cover page of this decision and I grant the landlord permission to serve the tenant via that email address listed on the cover page of this decision, pursuant to section 62(3) of the Act.

The landlord confirmed that the tenant vacated the rental unit on April 20, 2022 and as a result an order of possession is no longer required. Therefore, I will not consider an order of application further in this Decision.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- Is the landlord entitled to the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted for my consideration. A fixed-term tenancy began on December 19, 2021 and was schedule to convert to a month-to-month tenancy after May 31, 2022. Monthly rent in the amount of \$1,500.00 is due on the first day of each month. The tenant paid a security deposit of \$750.00 at the start of the tenancy, which the landlord continues to hold. The landlord testified that the tenant has failed to provide their written forwarding address in writing since vacating the rental unit.

The landlord testified that they tenant owes \$750.00 in unpaid rent for March 2022, \$1,500.00 for April 2022 and that the landlord suffered a lost of rent for May 2022 of \$750.00 due to the tenant breaching a fixed-term tenancy.

The landlord testified that they were able to secure new tenants as of May 15, 2022 who paid \$750.00 for May 15-31, 2022 rent. The landlord is seeking loss of rent for May 1-14, 2022 as a result, plus the filing fee.

The 10 Day Notice was presented which was dated March 7, 2022 and had an effective vacancy date of March 16, 2022. The amount listed as owing was \$1,500.00 due March 1, 2022. The landlord stated that the tenant failed to pay ½ of March 2022 rent and nothing for April 2022 rent. The tenant vacated on April 20, 2022.

Analysis

Based on the undisputed documentary evidence and the landlord's undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Landlord's claim for unpaid rent – The landlord testified that the tenant has failed to pay \$750.00 of March 2022 rent, nothing of April 2022 rent, and that they suffered a loss of \$750.00 for May 1-14, 2022 rent. Section 26 of the Act requires that a tenant pay rent on the day that it is due in accordance with the tenancy agreement. I find that the tenant breached section 26 of the Act by failing to pay the full amount of rent on the day that it is due as claimed by the landlord. Therefore, I find the landlord has met the burden of proof and is entitled to monetary compensation of **\$3,000.00** in unpaid rent and loss of rent as claimed.

As the landlord's claim had merit, **I grant** the landlord the recovery of their filing fee in the amount of **\$100.00** pursuant to section 72 of the Act.

As the tenant's claim was dismissed, **I do not** grant the tenant the recovery of the tenant's filing fee.

I find that the landlord has established a total monetary claim of **\$3,100.00** as described above. As the landlord does not want to offset the security deposit as the tenant has failed to provide a written forwarding address to the landlord, I grant the landlord a monetary order pursuant to section 67 of the Act for the amount owing to the landlord by the tenant in the amount of **\$3,100.00**.

Conclusion

The tenant's application has been dismissed in full, without leave to reapply.
The landlord's application has merit.

The landlord has established a total monetary claim of \$3,100.00. The landlord has been granted a monetary order in that amount. This order must be served on the tenant

and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The tenant is cautioned that they can be held liable for all costs related to enforcing the monetary order.

This decision will be emailed to both parties.

The monetary order will be emailed to the landlord only for service on the tenant.

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: July 8, 2022

Residential Tenancy Branch