



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPU, MNRL, MNDL, MNDCL**

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the *Residential Tenancy Act* (the “Act”) on August 18, 2022, for an order of possession, for a monetary order for unpaid rent and utilities and to recover the cost of the filing fee.

On November 28, 2022, the landlord submitted an application for substituted services requesting to serve the amendment and supporting evidence by email.

On December 1, 2022, the landlord request to amend a Dispute Resolution Application. The amendment seeks the following order, to increase the monetary order for unpaid rent, to add a claim for damages and for other monetary loss.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on September 7, 2022, a Canada post tracking number was provided as evidence of service. The Canada Post tracking history show that the tenant signed for the package on September 12, 2022. I find the tenant was served on September 12, 2022, in accordance with the Act.

As the landlord’s amended application filed on December 1, 2022, was not served in accordance with the Act and not at least 14 days before the hearing. I decline to hear the added issues. However, I am prepared to consider subsequent unpaid rent since filing their application.

The landlord testified that they no longer require an order of possession. The landlord stated that they discovered that the tenant had abandoned the rental unit on October 23, 2022.

Issue to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities?

Background and Evidence

The tenancy began on August 30, 2020. Current rent in the amount of \$2,740.50 was payable on the first of each month. A security deposit of \$1,350.00 and a pet damage deposit of \$1,350.00 were paid by the tenant.

The landlord testified that the tenant failed to pay rent for August 2022 and failed to pay the outstanding utilities for electricity and natural gas totalling the amount of \$413.57 following a written demand. The landlord stated that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on August 4, 2022. Filed in evidence is a copy of the Notice.

The landlord testified that the tenant did not pay the outstanding rent or utilities. The landlord stated that the tenant then failed to pay rent for September and October 2022. The landlord stated that they last had communication with the tenant on October 11, 2022; however, when they went to the premises on October 23, 2022, the rental unit had been abandoned.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Although the landlord would be entitled to an order of possession as the tenant did not pay the outstanding rent as indicated in the Notice. However, the landlord now has possession of the premises.

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the undisputed evidence of the landlord that the tenant failed to pay rent for August, September, and October 2022. I find the tenant breached the Act and the landlord suffered a loss. Therefore, I find the landlord is entitled to unpaid rent for the above months in the total amount of **\$8,221.50**.

I accept the undisputed evidence of the landlord that the tenant failed to pay the outstanding utilities of \$413.57 as stated in the Notice. I find the tenant breached the Act and tenancy agreement. Therefore, I find the landlord is entitled to recover unpaid utilities in the amount of **\$413.57**. **Filed in evidence are copies of the utility invoices.**

I find that the landlord has established a total monetary claim of \$8,735.07 comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$1,350.00** and pet damage deposit of \$1,350.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$6,035.07**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord is granted a monetary order and may keep the security deposit and pet damage deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: December 15, 2022

Residential Tenancy Branch