



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR
OPR-DR, MNR-DR, FFL

Introduction

This hearing dealt with the cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”). The matter was set for a conference call.

The Tenant’s application for Dispute Resolution was made on August 26, 2022. The Tenant applied to cancel a 10-Day Notice to End Tenancy for Unpaid Rent.

The Landlord filed a Direct Request Application on September 26, 2022. As the Tenant had already filed a dispute of the Notice, the Landlord’s application was crossed with the Tenant’s applications to be heard at the same time. The Landlord applied for an order of possession to enforce a 10-Day Notice for Unpaid Rent, for a monetary order for unpaid rent and to recover their filing fee.

The Landlord and the Landlord’s attorney (the “Landlord”) as well as the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the 10-Day Notice dated August 23, 2022, be cancelled?
- If not, is the Landlord entitled to an order of possession and a monetary order for unpaid rent?
- Is the Landlord entitled to the return for their filing fee for this application?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement recorded that the tenancy began on March 1, 2021, and that rent in the amount of \$1,100.00 is to be paid by the first day of each month. The parties agreed that a security deposit of \$550.00 was paid to the Landlord for this tenancy. Both the Landlord and the Tenant submitted a copy of the tenancy agreement into documentary evidence.

This hearing was scheduled for a teleconference hearing on this date.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. Rule 7.3 of the Rules of Procedure stipulates that an Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

This hearing was scheduled to commence at 11:00 a.m. on January 20, 2023. I called into the teleconference at 11:00 a.m.; the line remained open while the phone system was monitored for ten minutes, and the only participant who called into the hearing during this time was the Landlord. Therefore, as the Tenant did not attend the hearing by 11:11 a.m. and the Landlord appeared and was ready to proceed, I dismiss the Tenant's application without leave to reapply.

The Landlord testified that the Tenant moved out of the rental unit on October 17, 2022, and that they no longer require an order of possession for the rental unit.

The Landlord testified that they had also issued a Two-Month notice to end the tenancy for their personal use of the rental unit to the tenant and that this notice ended the tenancy as of September 30, 2022. The Landlord testified that the one-month rent compensation due under that Notice was used as the rent for September 2022 for this tenancy.

The Landlord also testified that the Tenant had not paid the outstanding rent indicated on August 26, 2022, notice, nor had they paid the rent for the 17 days that the Tenant overheld the rental unit between October 1 to 17, 2022.

The Landlord is requesting that a monetary order be issued for the outstanding rent due under this tenancy, for August and October 2022.

Analysis

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

I find that the Tenant's Application for Dispute Resolution has been abandoned.

I accept the Landlord's testimony that this tenancy ended on October 17, 2022, the date the Tenant move-out and returned the rental unit to the Landlord.

I also accept the undisputed testimony of the Landlord that the Tenant has not paid the outstanding rent for August and October 2022, for this tenancy. I find that the Landlord has proven their entitlement to a monetary award in the amount of \$1,653.16 in outstanding rent, consisting of \$1,050.00 in rent for August 2022, and \$603.16 in 17-days of rent for October 2022, at the per diem rate of \$35.48. I grant the Landlord permission to retain the security deposit they are holding for this tenancy in partial satisfaction of this award.

Additionally, 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 has been successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for their application.

I grant the Landlord a monetary order in the amount of \$1,203.16; consisting of \$1,653.16 in unpaid rent, and \$100.00 for the recovery of the filing fee, less the security deposit of \$550.00 that the Landlord is holding for this tenancy.

Conclusion

I grant the Landlord a **Monetary Order** in the amount of **\$1,203.16**. The Landlord is provided with this Order in the above terms, and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: January 20, 2023

Residential Tenancy Branch