



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord July 15, 2022 (the “Application”). The Landlord applied as follows:

- For an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 01, 2022 (the “Notice”)
- To recover unpaid rent
- To recover the filing fee

The Landlord appeared at the hearing. Nobody appeared at the hearing for the Tenant. I explained the hearing process to the Landlord. I told the Landlord they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Landlord provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord’s evidence.

The Landlord testified that the hearing package and their evidence were sent to the Tenant at the rental unit August 30, 2022, by registered mail and that Tracking Number 745 relates to the package. The Landlord testified that the Tenant moved out of the rental unit September 29, 2022. The Landlord submitted documentary evidence of service with Tracking Number 745 on it. The Canada Post website shows the package was unclaimed after notice cards were left September 01 and 06, 2022.

Based on the undisputed testimony of the Landlord, documentary evidence of service and Canada Post website information, I am satisfied the Tenant was served with the hearing package and Landlord's evidence in accordance with sections 88(c) and 89(1)(c) of the *Residential Tenancy Act* (the "Act") on August 30, 2022. The Tenant cannot avoid service by failing to pick up registered mail. Pursuant to section 90(a) of the *Act*, the Tenant is deemed to have received the hearing package and evidence September 04, 2022. I find the Landlord complied with rule 3.1 of the Rules in relation to the timing of service.

The Landlord testified that the Tenant moved out of the rental unit September 29, 2022, and therefore the Landlord no longer requires an Order of Possession. This claim is dismissed without leave to re-apply.

Given I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The Landlord was given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

#### Issues to be Decided

1. Is the Landlord entitled to recover unpaid rent?
2. Is the Landlord entitled to recover the filing fee?

#### Background and Evidence

The Landlord testified and explained as follows.

The Landlord purchased the rental unit March 22, 2022. At the time, the Tenant lived in the rental unit. At the time, the seller gave the Landlord a written tenancy agreement between them and a person with the initials A.A. At the time, the seller transferred a \$1,150.00 security deposit and \$1,150.00 pet damage deposit to the Landlord for the tenancy. At the time, the Landlord understood the Tenant to be A.A.

The Landlord spoke with the Tenant in April of 2022, and both agreed the Tenant would pay the Landlord \$2,300.00 per month by the first day of each month for rent for the rental unit. The Tenant did pay rent for April 2022.

The Tenant stopped paying rent in May 2022 and did not pay any rent from May 2022 to September 2022, when they moved out. The Tenant did not have authority under the *Act* to withhold rent.

The Landlord sought to keep the \$1,150.00 security deposit and \$1,150.00 pet damage deposit towards unpaid rent.

The Landlord submitted the following documentary evidence:

- The Notice
- A Direct Request Worksheet
- A prior RTB Decision
- Property purchase papers
- A written tenancy agreement between the prior owner and A.A.

### Analysis

Section 26(1) of the *Act* requires tenants to pay rent in accordance with the tenancy agreement unless they have a right to withhold rent under the *Act*.

I accept the undisputed testimony of the Landlord about the circumstances of this tenancy and find the Landlord and Tenant had a verbal tenancy agreement as of April 2022, pursuant to which the Tenant was required to pay \$2,300.00 in rent per month by the first day of each month.

I note that the Tenant appeared at a prior hearing and agreed about the following facts (RTB Decision issued May 31, 2022, page 2):

The parties agreed on the following facts. The landlord visited the rental property on April 1, 2022 and established a verbal tenancy agreement with the tenant, who paid him the rent for April 2022, the first month of the tenancy. Rent is \$2,300.00 a month, due on the first of the month. The tenant did not pay a security deposit or pet damage deposit.

I accept the undisputed testimony of the Landlord that the Tenant failed to pay rent from May of 2022 to September of 2022, when the Tenant moved out of the rental unit. I accept the undisputed testimony of the Landlord that the Tenant did not have authority

under the *Act* to withhold rent and note that there is no evidence before me that the Tenant did.

I find the Tenant owes the Landlord \$11,500.00 being \$2,300.00 per month for five months (May to September 2022). I allow the Landlord to amend the Application to seek the full amount of rent outstanding pursuant to rule 4.2 of the Rules. The Landlord is entitled to recover \$11,500.00 in unpaid rent.

Given the Landlord has been successful in the Application, I award them \$100.00 as reimbursement for the filing fee pursuant to section 72(1) of the *Act*.

In total, the Landlord is entitled to \$11,600.00. The Landlord can keep the security and pet damage deposits pursuant to section 72(2) of the *Act*. The Landlord is issued a Monetary Order for \$9,300.00 pursuant to section 67 of the *Act*.

### Conclusion

The Landlord is entitled to \$11,600.00. The Landlord can keep the security and pet damage deposits. The Landlord is issued a Monetary Order for \$9,300.00. This Order must be served on the Tenant and, if the Tenant does not comply with the Order, it may be filed in the Provincial Court (Small Claims) 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 *Act*.

Dated: January 12, 2023

---

Residential Tenancy Branch