



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

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## **DECISION**

Dispute Codes: CNR-MT OLC OPR-DR FFL

### **Introduction**

The landlord seeks an order of possession and a monetary order for unpaid rent pursuant to sections 55 and 55(1.1) of the *Residential Tenancy Act* (the “Act”). They also seek to recover the cost of the filing fee under section 72 of the Act.

By way of cross-application the tenant sought to dispute a notice to end the tenancy for unpaid rent and an order for landlord compliance. The tenant did not attend the hearing.

### **Issue**

Is the landlord entitled to an order of possession and a monetary order?

### **Background and Evidence**

The landlord’s representative (the “landlord”) testified under oath that rent, which is due on the first day of the month, is \$546.00. The tenant paid a \$318.00 security deposit which is currently held in trust by the landlord pending the outcome of these applications. There is, I note, a written tenancy agreement in evidence.

The landlord gave evidence that a notice to end tenancy for unpaid rent (the “Notice”) was sent by registered mail on November 9, 2022. A copy of that notice to end tenancy was in evidence before me. Also included in evidence was a copy of a direct request worksheet itemizing some of the unpaid rent and also registered mail service receipt documentation. The landlord testified that rent arrears are currently \$571.00.

### **Analysis**

Section 26 of the Act requires tenants to pay rent on time unless they have a legal right to withhold some of the rent. Section 46(1) of the Act allows landlords to end a tenancy if the tenant does not pay rent on time by issuing a notice to end the tenancy.

The landlord's evidence shows that the tenant did not pay the rent when it was due. Thus, I find on a balance of probabilities that the Notice was given for the tenant's non-payment of rent. I find that the Notice complies with form and content requirements of section 52 of the Act. Thus, the tenant's application to cancel the Notice is dismissed.

Based on the above findings, the landlord is granted an order of possession under section 55(1) of the Act. A copy of the order of possession is attached to this Decision and it must be served on the tenant. The tenant has two (2) days to vacate.

Given that the landlord's application relates to a section 46 notice to end tenancy, they are entitled to an order for unpaid rent under section 55(1.1) of the Act. Therefore, the tenant is ordered to pay \$571.00 to the landlord.

As the landlord was successful in its application, they are entitled to \$100.00 to pay for the cost of the filing fee (section 72). In total, the landlord is awarded \$671.00.

Pursuant to section 38(4)(b) of the Act, I order and authorize the landlord to keep the security deposit in partial satisfaction of the award. A monetary order for the remainder (\$353.00) is attached to this Decision and the order must also be served on the tenant.

### Conclusion

The landlord's application is granted.

The tenant's application is dismissed, without leave to reapply.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: January 13, 2023

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Residential Tenancy Branch