



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC MNRL-S FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order for \$4,750 unpaid rent or utilities, for an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause (1 Month Notice), for authorization to retain all or part of the tenant's security deposit towards any amount owing, and to recover the cost of the filing fee.

An agent for the landlord, JG (agent) attended the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated September 15, 2022 (Notice of Hearing), application and documentary evidence (Hearing Package) were considered. The agent testified that the (Hearing Package) was served on the tenant by registered mail on September 18, 2022. The registered mail tracking number was submitted in evidence and the tracking number has been referenced on the cover page of this decision for ease of reference.

According to the online registered mail tracking website the Hearing Package for tenant CE was successfully delivered on September 20, 2022. Based on the undisputed evidence before me, I find the tenant was served on September 20, 2022, the day the Hearing Package was successfully delivered. Given the above, and pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3, which deal with consequences for not attending a dispute resolution hearing, I find this application to be unopposed by the tenant as the tenant was served and did not attend the hearing.

Given the above, the hearing continued without the tenant present in accordance with RTB Rule 7.3.

Preliminary and Procedural Matters

At the outset of the hearing, the agent confirmed that the tenant vacated the rental unit on October 5, 2022 since the application was filed on September 1, 2022. As a result, the agent confirmed that an order of possession is no longer necessary as the landlord has possession of the rental unit again. Therefore, I will not be considering an order of possession given the above.

The agent confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the agent confirmed an email address for the tenant, the decision will be sent by email to the tenant. The tenant's email has been included on the cover page of this decision for ease of reference.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The agent explained that the first tenancy began on September 1, 2019 and then on December 1, 2021, a new fixed-term tenancy began and was scheduled to convert to a month-to-month tenancy after November 30, 2022. The tenant's monthly rent was \$1,800 per month and was due on the first day of each month. The tenant paid a security deposit of \$900 at the start of the tenancy, which the landlord continues to hold.

The landlord is seeking \$4,750 as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid rent 2020-2021	\$4,650
2. Filing fee	\$100
TOTAL	\$4,750

Regarding item 1, the agent stated that the tenants owe a total of \$4,650 in rent arrears dating back to 2020 through 2021 and including payment plans stemming from COVID that the tenant failed to comply with. The agent stated that all arrears together total \$4,650 before the filing fee.

Submitted in evidence is a rent payment history, rent payment plan, and other documents in support of the \$4,650 amount owing.

Item 2 relates to the filing fee, which I will address later in this decision.

Analysis

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

As the tenant was served with the Hearing Package and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's application is fully successful in the amount of **\$4,750**, which includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100 as the landlord's application is successful. I have considered the undisputed testimony of the agent and that the application was unopposed by the tenant. The landlord continues to hold the tenant's security deposit of \$900, which has accrued interest in the amount of **\$1.59** for a total security deposit including interest of **\$901.59** under the Act.

I find the tenant breached section 26 of the Act by failing to pay \$4,650 when rent was due on the first day of each month based on the rent arrears I find are supported in the matter before me.

Therefore, I authorize the landlord to retain the tenant's full security deposit including interest of \$901.59 in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the balance owing of **\$3,848.41**.

Conclusion

The landlord's application is fully successful.

The landlord has been authorized to retain the tenant's full security deposit including interest of \$901.59 in partial satisfaction of the landlord's monetary claim. The landlord

has been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of \$3,848.41. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision will be emailed to both parties.

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

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

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: February 2, 2023

Residential Tenancy Branch