



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Owner c/o Ambiance Property Management  
Inc. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution by Direct Request (the “Application”) on August 13, 2022 seeking an order of possession for the rental unit, a monetary order to recover the money for unpaid rent, and to recover the filing fee for their Application.

This participatory hearing was convened after the issuance of the September 28, 2022 Interim Decision of an Adjudicator. The Adjudicator determined that the Landlord’s application could not be considered by way of the Residential Tenancy Branch’s direct request proceedings, as had been originally requested by the Landlord. The Adjudicator reconvened the Application to a participatory hearing as they were not satisfied on the details of the number of tenants in the rental unit.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on February 2, 2023. In the conference call hearing, I explained the process and provided the attending party, the Landlord, the opportunity to ask questions.

### Preliminary Matter – Landlord’s service of Notice of Dispute Resolution Proceeding

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with the Notice of Dispute Resolution Proceeding for this hearing. This means the Landlord must provide proof that they served that document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

The Landlord set out how they served this Notice to the Tenant using registered mail, sent on September 29, 2022, after they the Notice of Dispute Resolution Proceeding from the Residential Tenancy Branch on September 28, 2022. The Tenant did not accept this registered mail. In the hearing, the Landlord presented the tracking number for the registered mail they sent to the rental unit where the Tenant still resided at that time. Tracking information reveals this was not accepted and return-sent to the Landlord, *i.e.*, the sender.

Based on the submissions of the Landlord, as well as the evidence they provided of the tracking number, I find they served the Notice of Dispute Resolution Proceeding in a manner complying with s. 89(2)(b) of the *Act*. The hearing thus proceeded in the Tenant's absence. I find the Tenant had proper notification of this participatory hearing, and more likely than not chose not to attend.

#### Preliminary Matter – scope of the present issues

In the hearing, the Landlord advised that the Tenant had moved out from the rental unit. They became aware that the unit was vacant on October 20, 2022. This was revealed to the Landlord when they had no answer to a knock on the door at that date, then viewed the empty rental unit from the outside, to see bare walls within. They visited again with the assistance of a locksmith to find the unit empty.

In light of this evidence, I amend the Landlord's Application to close the issue of an order of possession.

#### Issue(s) to be Decided

Is the Landlord entitled to monetary compensation for unpaid rent pursuant to s. 67 of the *Act*?

Is the Landlord entitled to recover the filing fee for this application pursuant to s. 72 of the *Act*?

### Background and Evidence

The Landlord submitted a signed copy of the Residential Tenancy Agreement. This shows the start of tenancy date was December 1, 2020, for two tenants in the rental unit. The rent was \$1,650 per month payable on the first of each month, and did not increase over the course of the tenancy. The Tenant paid a security deposit amount of \$825.

In the hearing, the Landlord explained the situation involving two original tenants. The 2<sup>nd</sup> Tenant – not named as a respondent in this hearing – moved out from the rental unit by giving notice to the Landlord. The Tenant here remained; however, they paid a partial amount of rent in August 2022, and then nothing after that. As set out above, the Landlord discovered the unit empty, and made the determination that the Tenant had abandoned the rental unit, on October 20, 2022.

The Landlord provided a copy of the 10-Day Notice to End Tenancy for Unpaid Rent (the “10-Day Notice”) they signed on August 2, 2022. This provided for the end-of-tenancy date of August 12, 2021 [*sic*]. The Landlord served this document by sending a copy via registered mail to the Tenant in the rental unit. In their evidence, the Landlord described the service, and a “proof of service” document accompanied that document attached to the door of the rental unit. The Landlord provided photos showing the document page-by-page attached to the door of the rental unit.

Page 2 of the document shows the reason the Landlord served the 10-Day Notice: this is unpaid rent in the amount of \$1,650, for the month of August 2022.

The Tenant paid \$837.38 to the Landlord on August 5. This left the amount of \$812.62 owing as unpaid rent. The Landlord in the hearing sought to amend their Application by adding the subsequent months of September (\$1,650) and October (\$1,650). The total amount of rent owing, as of the date of the hearing, was \$4,112.62. The Landlord noted they received no answer to their communication, and no messages from the Tenant to them concerning the tenancy.

### Analysis

I have reviewed the copy of the tenancy agreement. In combination with the Landlord’s oral testimony on its’ terms and the conditions of how it was started with the Tenant, I am satisfied that the agreement existed between the Landlord, and this Tenant knew

the terms and conditions therein. Most importantly I find the Tenant was aware of the rent amount at all times. Based on the testimony of the Landlord, and the proof of an agreement between the parties, I find the rent agreement was in place and clearly stated the amount of \$1,650 and schedule for payment.

It does not appear the Tenant here made other arrangements with the Landlord upon their roommate (*i.e.*, the other tenant) leaving. I hold this Tenant accountable for all rent amounts owing; the Tenant did not attend the hearing to speak to the liability of the other Tenant in this matter.

The Landlord provided testimony in the hearing that addressed the matter of the tenancy ending. I find this was a situation where the Tenant abandoned the rental unit. I find the effective date of the end of this tenancy was October 31, 2022. This is based on no record of notification from the Tenant to the Landlord that the tenancy was ending, and the Tenant here breached the *Act* by doing so.

Further, the Tenant breached the *Act* s. 26 by not paying rent as required by the tenancy agreement. I find the Landlord provided an accurate accounting of the rent shortfall; I so order compensation to the Landlord for this amount.

I provide the Landlord with a Monetary Order for the outstanding rent amount owing, as of the date of this hearing. That amount is \$4,112.62. The *Act* section 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by the landlord. The landlord has established a claim of \$4,112.62. After setting off the security deposit amount of \$825, there is a balance of \$3,287.62. I am authorizing the Landlord to keep the security deposit amount and award the balance of \$3,287.62 as compensation for the rent amounts owing.

Because the Landlord was successful in their Application, I grant the \$100 Application filing fee award to them.

### Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$3,387.62. 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 s. 9.1(1) of the *Act*.

Dated: February 3, 2023

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Residential Tenancy Branch