



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, RP, OPR, MNR, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. An order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and
2. To recover the cost of filing the application.

Only the landlord appeared.

At the outset of the hearing the landlord indicated that the tenant was seen vacating the rental unit in the middle of night on December 5, 2022. The landlord stated that they no longer required an order of possession; however, seek to recover the unpaid rent pursuant to section 26 of 55(1.1) of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The tenancy began on August 1, 2020. Rent in the amount of \$1,200.00 was payable on the first of each month. A security deposit of \$600.00 was paid by the tenant.

The landlord testified that the tenant failed to pay rent for September in the amount of 651.71 and rent for October 2022 of \$1,200.00. The landlord stated that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on October 21, 2022.

The landlord testified that the tenant failed to pay the outstanding rent listed in the Notice (\$1,851.71). The landlord stated that the tenant failed to pay rent for November 2022 (\$1,200.00); however, the tenant did pay \$600.00 on November 4, 2022, which \$359.05 went towards the outstanding arrears and the balance to unpaid utilities leaving a balance owed of \$2,692.66. The landlord stated the tenant did not pay rent for December 2022 and the total owed for unpaid rent is the amount of \$3,892.66.

Analysis

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

I accept the landlord's undisputed testimony that the tenant failed to pay rent in accordance with section 26 of the Act and was served with the Notice. I find the tenant's application had no merit as rent was not paid. I find the tenant breached the Act. I find the Notice was valid. Therefore, I dismiss the tenant's application without leave to reapply.

As I have dismissed the tenant's application, I must consider section 55 of the Act. The landlord does not require an order of possession as the tenant abandoned the rental unit.

The landlord is entitled to a monetary order pursuant to section 55(1.1) and 67 of the Act for the unpaid rent. Therefore, I find the landlord has established a total monetary claim for unpaid rent in the amount of \$3,892.66.

I order that the landlord retain the security deposit of **\$600.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$3,392.66**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

As the tenant abandoned the rent unit without providing a forwarding address to the landlord, and the tenant has provided an email address for service with their application for dispute resolution. I find it appropriate to grant the landlord a substituted service order to serve a copy of the Order and any future application for dispute resolution, if required. I have noted the tenant's email address for service on the covering page of this decision. A copy of this decision may be submitted for any future hearing to show that I have granted the substituted service order on the tenant.

Conclusion

The tenant's application is dismissed. The landlord no longer requires an order of possession. The landlord is granted a monetary order to recover unpaid rent and recover the filing fee. The landlord is entitled to keep the security deposit in partial satisfaction of rent owe.

I grant the landlord a substituted service order to be allowed to serve the tenant by email a copy of the Order and any future application.

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: March 10, 2023

Residential Tenancy Branch