



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR, MNRL-S, FFL

Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the landlord’s April 19, 2023, application to the Residential Tenancy Branch for:

- (i) an order of possession on an undisputed notice to end tenancy (the “Notice”) under section 55(2)(b) of the Act;
- (ii) a monetary order for unpaid rent under section 67 of the Act; and
- (iii) authorization to recover the cost of the filing fee under section 72 of the Act.

The landlord attended the hearing. No one dialled in on behalf of the tenant during the hearing, which lasted from 11:00 A.M. to 11:12 A.M. The landlord testified under oath that the landlord served a *Notice of Dispute Resolution Proceeding* on the tenant by registered mail. There is proof of tracking information submitted into evidence. It is my finding that the tenant was served with the required notice in compliance with the Act.

Preliminary Issue – landlord already has possession of rental unit

The landlord affirmed that the tenant left the rental unit on May 5, 2023, and the landlord currently has possession of the rental unit. The current application before me for an order of possession is moot since the landlord already has possession of the rental unit.

Section 62(4)(b) of the Act states that an application should be dismissed if the application or part of an application for dispute resolution does not disclose a dispute that may be determined under the Act. I exercise my authority under section 62(4)(b) of the Act to dismiss the application for an order of possession.

Issues

1. Is the landlord entitled to a monetary order for unpaid rent?
2. Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began November 1, 2022. Rent is \$3,000.00 due on the first day of the month. The landlord currently retains a \$1,500.00 security deposit. There is a copy of the written tenancy agreement in evidence.

The landlord served the Notice on March 2, 2023, by posting a copy to the door of the rental unit. Page two of the Notice indicates that the tenant did not pay rent in the amount of \$3,000.00 that was due on March 1, 2023. All pages of the Notice were served and submitted into evidence.

The landlord affirmed that the tenant is currently \$6,000.00 in rental arrears, representing unpaid rent from March and April 2023.

Analysis

Section 26 of the Act requires tenants to pay rent the day it is due unless they have a legal right to withhold rent.

The landlord's undisputed evidence establishes that the tenant owes \$6,000.00 in unpaid rent. Taking into consideration all of the undisputed evidence before me, I find on a balance of probabilities that the tenant did not pay the rent as required under section 26(1) of the Act. Pursuant to section 67 of the Act, I have determined that the landlord suffered a monetary loss of \$6,000.00, and order that the tenant pay this amount to the landlord.

Since the landlord was successful in its application, the landlord's application to recover the cost of the filing fee under section 72 of the Act is granted.

Pursuant to sections 38 and 72 of the Act, the landlord is ordered to retain the \$1,500.00 security deposit as partial satisfaction of the payment order. A monetary

order for the remaining amount of \$4,600.00 is attached to this Decision and must be served on the tenant.

Conclusion

The application is hereby granted. The landlord is awarded a monetary order for the amount of \$4,600.00.

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: June 13, 2023

Residential Tenancy Branch