



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR, MNRL-S, MNDCL-S, FFL

Introduction and Service

This hearing dealt with the Landlord's application of April 26, 2023, for an order of possession and compensation based on a 10 Day Notice to End Tenancy for Unpaid Rent, issued on April 6, 2023 (the 10 Day Notice).

This matter was set for hearing by telephone conference call at 9:00 am. The line remained open while the phone system was monitored for 24 minutes, and the only participant who called into the hearing during this time was the Landlord.

The Landlord says they served the Tenant with the Notice of Dispute Resolution Proceeding (Proceeding Package) by registered mail on May 1, 2023. The Landlord provided a copy of the Canada Post Customer Receipt containing the tracking number and a signed Proof of Service form to confirm this service.

The Tenant is deemed to have received the Proceeding Package on May 6, 2023, in accordance with sections 89(1) and 90 of the Act. The hearing proceeded in the absence of the Tenant, pursuant to Rule 7.3 of the Rules of Procedure.

Issue(s) to be Decided

1. Does the 10 Day Notice end the tenancy?
2. Is the Landlord entitled to compensation for unpaid rent and NSF fees under section 67 of the Act?
3. Is the Landlord entitled to recover their filing fee?

Facts and Analysis

The Landlord submitted a copy of a residential tenancy agreement which was signed by the Landlord and the Tenant on April 8, 2021, indicating a monthly rent of \$1,855.00, due on the first day of each month for a tenancy commencing on June 1, 2021.

The Landlord says they are still holding the Tenant's security deposit of \$927.50. The interest accrued on the security deposit is \$8.14 based on a rate of 1.95% from January 1, 2023 to the date of the hearing, June 13, 2023. I find the total deposit amount is \$935.64.

The Landlord says the current monthly rent owing is \$2,023.00, including parking and a rent increase of 1.5% which came into effect on June 1, 2022. The Landlord provided a Notice of Rent Increase form for 2023 which confirms the 2022 rent increase, two parking agreements signed by the Tenant, and a Tenant rent ledger confirming the Tenant made previous monthly payments in accordance with the rent increases and parking agreements. The Tenant paid \$2,023.00 on March 1, 2023. I find the Tenant was obligated to pay \$2,023.00 on a monthly basis to the Landlord.

The Landlord says the last payment they received from the Tenant was in March 2023. The Tenant's rent and parking payment for April 2023 was returned NSF and the Landlord charged a \$25 late fee pursuant to the tenancy agreement.

The Landlord says they served the 10 Day Notice, stating \$2,023.00 in unpaid rent, to the door of the rental unit at 2:00 pm on April 6, 2023. I find the 10 Day Notice complies with the Act.

The Landlord provided a signed and witnessed Proof of Service form to confirm service of the 10 Day Notice. I find the Tenant is deemed to have received the 10 Day Notice on April 9, 2023, three days after it was posted to the door of the rental unit.

I accept the Landlord's testimony and evidence that the Tenant failed to pay the amount owing in full within the five days granted under section 46(4) of the Act and did not dispute the 10 Day Notice within that five-day period.

The Tenant is conclusively presumed under sections 46(5) and 53(2) of the Act to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, April 19, 2023. I grant the Landlord an order of possession.

I find that the Landlord is entitled to monetary order for the unpaid rent for April to June 2023, parking and late fees in the amount of \$6,094.00. I order that the Landlord retain the security deposit of \$935.64 in partial satisfaction of their claim, and I grant the Landlord an order under section 67 of the Act for the balance due of \$5,158.36.

Month	Rent and parking	NSF charged	Deposit and interest	TOTAL
April	\$2,023.00	\$25		
May	\$2,023.00			
June	\$2,023.00			
TOTAL	\$6,069.00	\$25	- \$935.64	\$5,158.36

As the Landlord was successful in this application, I find that the Landlord is entitled to recover their \$100.00 filing fee.

Conclusion

I grant the Landlord an order of possession. Should the Tenant fail to move out, the order of possession may be filed in the Supreme Court.

I grant the Landlord a monetary order in the amount of \$5,258.36 for rent and fees owed from April to June 2023 and for the recovery of the filing fee for this application. Should the Tenant fail to comply, this order may be filed in the Small Claims Division of the Provincial Court.

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 15, 2023

Residential Tenancy Branch