



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

### **Introduction**

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

The landlord's application filed on April 1, 2023, is seeking orders as follows:

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

The tenants' application filed on March 24, 2023, is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on March 16, 2023; and
2. To recover the cost of filing the application.

This matter proceeded on May 9, 2023. The parties agreed to end the tenancy and the issue of unpaid rent was adjourned to today's date, September 5, 2023, at 11:00 am. The interim decision should be read in conjunction with this Decision. The tenant did not comply with my interim decision as they did not upload into the digital file a copy of the email sent to the landlord showing the same attached files.

Only the landlord appeared on September 5, 2023, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and make submissions at the hearing.

### **Preliminary Issue**

At the outset of the hearing I questioned the landlord regarding the named respondent TL, as TL is not listed on the tenancy agreement. The landlord stated that TL moved into the rental unit after the tenancy agreement was signed with the tenant DR. Since TL was not added as a tenant on the tenancy agreement, I find TL was a roommate of

the tenant DR and an occupant under the Act. Therefore, I have removed TL from the style of cause as they are not a tenant under the Act.

### Issue to be Decided

Are the landlords entitled to a monetary order for unpaid rent?

### Background and Evidence

The tenancy began on June 5, 2022. Rent in the amount of \$1,100.00 was payable on the first of each month. A security deposit of \$550.00 was paid by the tenant. The tenancy ended on May 15, 2023.

The landlord testified that the tenants failed to pay rent as outlined in the accounting details. The landlord stated that tenant failed to pay any rent for May 2023.

#### **Accounting of Unpaid Rent**

<b>Rent Due Date</b>	<b>Rent Amount Owing</b>	<b>Date of Payment</b>	<b>Amount of Partial Payment(s)</b>	<b>Balance</b>
July 01, 2022	\$ 1,100.00	July 07, 2022	\$ 1,100.00	\$ -
August 01, 2022	\$ 1,100.00	N/A	\$ 800.00	\$ 300.00
September 01, 2022	\$ 1,100.00	N/A	\$ -	\$ 1,400.00
October 01, 2022	\$ 1,100.00	Oct 08, 2022 & Oct 21, 2022	\$ 1,500.00	\$ 1,000.00
November 01, 2022	\$ 1,100.00	N/A	\$ -	\$ 2,100.00
December 01, 2022	\$ 1,100.00	N/A	\$ -	\$ 3,200.00
January 01, 2023	\$ 1,100.00	N/A	\$ -	\$ 4,300.00
February 01, 2023	\$ 1,100.00	N/A	\$ -	\$ 5,400.00
March 01, 2023	\$ 1,100.00	N/A	\$ -	\$ 6,500.00
April 01, 2023	\$ 1,100.00	N/A	\$ -	\$ 7,600.00

### Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation, or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

### **Rules about payment and non-payment of rent**

*26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations, or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

The evidence of the landlord was the tenant did not pay all rent owed as shown in the accounting of unpaid rent in the amount of \$7,600.00 and no rent for May 2023, was paid by the tenant for the time period they occupied the rental unit at a prorated amount of \$550.00. I find the tenant has breached section 26 of the Act when they failed to pay rent when due under the tenancy agreement and this has caused losses to the landlords. I find the tenant owes the landlords unpaid rent in the total amount of **\$8,150.00**.

I find that the landlords have established a total monetary claim of **\$8,250.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlords retain the security deposit of **\$550.00** in partial satisfaction of the claim and I grant the landlords an order under section 67 of the Act for the balance due of **\$7,700.00**.

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.

### Conclusion

The landlords are granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlords are granted a formal order for the balance due.

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: September 05, 2023

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Residential Tenancy Branch