



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

Tenant file: CNR, MNDCT, RP, LRE
Landlord file: OPR, MNRL-S, FFL

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear a cross application regarding the above-noted tenancy.

The tenant's application pursuant to the Act is for:

- Cancellation of a 10 Day Notice to End Tenancy for unpaid rent pursuant to section 46;
- A monetary order for compensation for damage and loss under the Act, the Regulation or tenancy agreement, pursuant to section 67;
- An order requiring the landlord to carry out repairs, pursuant to section 32; and
- An order to restrict or suspend the landlord's right of entry, under section 70

The landlord's application pursuant to the Act is for:

- An order of possession under a 10-Day Notice to End Tenancy for Unpaid Rent (the Notice) pursuant to sections 46 and 55;
- A monetary order for compensation for damage and loss under the Act, the Regulation or tenancy agreement, pursuant to section 67; and
- An authorization to recover the filing fee for this application, pursuant to section 72

Sections 55 (1) and (1.1) of the Act require that when a tenant submits an application for dispute resolution seeking to cancel a notice to end tenancy issued by a landlord under section 46 of the Act, I must consider if the landlord is entitled to an order of possession and monetary order if the application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the Act.

Preliminary Issue

Should any part of the applications before me be dismissed?

I left the teleconference connection open until 9:50 AM to enable any representative of the tenant to appear for the hearing scheduled for 9:30 AM. I checked the internal case management system the day of the hearing and on the morning of September 6, 2023, for any record of contact from tenant. I proceeded with the hearing as permitted by Rule of Procedure 7.3.

GS advised that the rental unit was vacated on August 4, 2023. In absence of any attendance at this hearing by the tenant and because the rental unit has already been vacated by the tenant, I order the tenant's application dismissed without leave to reapply. As the landlord already has possession of the rental unit, their application for an order of possession is moot and dismissed without leave to reapply.

Issue(s) to be Decided

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

Is the landlord entitled to an authorization to recover the filing fee?

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and the Evidence

- The landlord acknowledged service of the Proceeding Package
- The landlord reported that they did not receive any evidence from the tenant
- The landlord sent the Proceeding Package and evidence by registered mail. The landlord provided two Canada Post tracking numbers, one for each tenant, to confirm this service. I deem the tenants served with the Proceeding Package and the evidence by registered mail on July 23, 2023 as per section 90 of the Act

Background and Evidence

I have reviewed all evidence, including the testimony of the parties in attendance, but will refer only to what I find relevant for my decision.

Evidence was provided by the landlord showing that this tenancy began on June 28, 2023, with a monthly rent of \$1950.00, due on the 28th day each month. GS testified that a \$1950.00 security deposit was paid to the landlord by cash before the move in but was unsure of the exact date. GS stated that the full security deposit amount has since been returned to the tenants after they vacated the rental unit.

According to GS, the landlord has never received any rental payment and is seeking \$1950.00 rent for the month of July 2023. A 10 Day Notice to end tenancy for unpaid rent was initially posted on the door on July 6, 2023, and a new notice was sent by registered mail on July 7, 2023.

Analysis

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

Given the uncontested testimony by GS, I find that the tenants are owing \$1950.00 in unpaid rent to the landlord.

Is the landlord entitled to an authorization to recover the filing fee?

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

Conclusion

I grant the landlord a Monetary Order in the amount of **\$2050.00** under the following terms:

Monetary Issue	Granted Amount
One-month unpaid rent (June 28 – July 27, 2023)	\$1,950.00
Filing fee	\$100.00

	Total Amount \$2,050.00
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The landlord is provided with this order in the above terms and the tenants must be served with this order as soon as possible. Should the tenants 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 06, 2023

Residential Tenancy Branch