



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, CNC, FFT, OPR-DR, MNRL, MNDL, MNDCL, FFL,

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) under sections 46 and 55 of the Act
- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the One Month Notice) and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act
- an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) under sections 46 and 55 of the Act
- a Monetary Order for unpaid rent under section 67 of the Act
- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- authorization to recover the filing fee for this application from the landlord under section 72 of the Act
- authorization to recover the filing fee for this application from the tenant under section 72 of the Act

Issue(s) to be Decided

Should the landlord's 10 Day Notice be cancelled?

Should the landlord's One Month Notice be cancelled?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order for unpaid rent?

Is the landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Is the landlord entitled to a Monetary Order for compensation for damage or loss under the Act?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

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

The landlord provided a copy of the tenancy agreement showing rent is \$1900.00 due on the first of each month and the security deposit is \$950.00.

The landlord provided a copy of the 10 Day Notice that was signed on August 1, 2023, with a moveout date of August 13, 2023. The landlord affirms he served the tenant in person on August 3, 2023. The landlord affirms the tenant vacated the rental unit sometime in the last week of August 2023, or first week of September 2023. The landlord affirms that the last time they saw the tenant was on September 5, 2023, when the tenant returned to ask the landlord to open the rental unit, as the tenant had lost his keys, so that he could remove the remainder of his belongings. The tenant still left a lot of his belongings behind after his visit on September 5, 2023.

The landlord affirms that the tenant only paid \$750.00 of the rent for August 2023, and has not paid any rent for September or October. The landlord is requesting \$3950.00 in unpaid rent.

The landlord provided no evidence of damage done to the rental unit. They affirmed they have not entered the rental unit but were able to see damage when opening the door for the tenant on September 5, 2023.

The landlord affirms that if Kyle vacated on August 13, 2023, he could have fixed the rental unit and been able to rent it again to a student as they are one block away from a university. He further affirms that as it is now midway through the semester it will be very difficult to rent the unit out again. The landlord is requesting compensation for loss of rent income.

Analysis

Should the landlord's 10 Day Notice be cancelled?

As the landlord affirms the tenant vacated the unit in the last week of August 2023, or the first week of September 2023, and the last time the landlord saw the tenant was September 5, 2023, I find that the tenancy ended on September 5, 2023. I further find,

under section 24 of the Residential Tenancy Regulations, that the tenant abandoned his personal property on September 5, 2023.

No tenancy currently exists. As the claim relates to an ongoing tenancy, the tenant's application is dismissed without leave to reapply.

Should the landlord's One Month Notice be cancelled?

No tenancy currently exists. As the claim relates to an ongoing tenancy, the tenant's application is dismissed without leave to reapply.

Is the landlord entitled to an Order of Possession?

As I find that the tenant vacated the rental unit on September 5, 2023, and that he has abandoned his personal property, the landlord does not need an order of possession because they already have possession. The landlord's application is dismissed without leave to reapply.

Is the landlord entitled to a Monetary Order for unpaid rent?

As I find the tenancy ended on September 5, 2023, the landlord has established a claim to unpaid rent as follows:

August 2023 unpaid rent	\$1150.00
September 2023 unpaid rent	\$1900.00
Total	\$3050.00

Is the landlord entitled to a Monetary Order for damage to the rental unit or common areas?

The landlord did not provide any proof of damage to the rental unit. Therefore, the landlord's application is dismissed with leave to reapply.

Is the landlord entitled to a Monetary Order for compensation for damage or loss under the Act?

The landlord has provided insufficient evidence of loss due to the tenant's non-compliance with this Act, the regulations or their tenancy agreement. Furthermore, evidence has not been provided of efforts to minimise those losses, as required under section 7 of the Act. Therefore, the landlord's application is dismissed with leave to reapply.

Is the tenant entitled to recover the filing fee for this application from the landlord?

As the tenant was not successful in this application, the tenant's application for authorization to recover the filing fee for this application from the landlord under section 72 of the Act is dismissed, without leave to reapply.

Is the landlord entitled to recover the filing fee for this application from the tenant?

As the landlord was successful in this application, the landlord's application for authorization to recover the filing fee for this application from the tenant under section 72 of the Act is granted.

Conclusion

I find that the tenant vacated the rental unit on September 5, 2023, and that he abandoned his personal property. An order of possession is not needed as the landlord already has possession.

I grant the landlord a Monetary Order in the amount of **\$3150.00** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 55 of the Act	\$3050.00
authorization to recover the filing fee for this application from the tenant under section 72 of the Act	\$100.00
Total Amount	\$3150.00

The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) 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.

The landlord may retain the tenant's security deposit of \$950.00 as partial satisfaction of the monetary order.

As the tenant abandoned his personal property the landlord may remove the personal property from the residential property, and on removal must deal with it in accordance with the Residential Tenancy Regulations.

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: November 08, 2023

Residential Tenancy Branch