



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      OPR MNR

### **Introduction**

This hearing was reconvened from an adjourned hearing originally scheduled for March 30, 2017. I had allowed the tenant's adjournment application as the tenant testified that he received the landlords' application too late for him to review the application and respond with his own evidence for the hearing.

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the Act") for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67.

While the landlords attended the hearing by way of conference call, the tenant did not. I waited until 9:58 a.m. to enable the tenant to participate in this scheduled hearing for 9:30 a.m. The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply

The landlords testified that the tenant was personally served on February 7, 2017 with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") with an effective date of February 18, 2017. In accordance with section 88 of the Act, I find the tenant was duly served with the 10 Day Notice on February 7, 2017.

The landlords testified that the hearing package and evidence were served to the tenant by way of registered mail on April 7, 2017. In accordance with sections 88, 89 and 90 of

the Act, I find the tenant deemed served with copies of the hearing package and evidence on April 12, 2017, five days after mailing.

During the hearing the landlords requested that the application be amended to include all the landlords' names on the application as the original application only contained the name of the landlord's agent. Accordingly the application was amended to add the names of the landlords to this application.

The landlords indicated in the hearing that the tenant had moved out on May 2, 2017, and are cancelling their application for an Order of Possession. Accordingly this portion of the landlords' application is cancelled.

The landlords also requested to amend the application to include a request for additional compensation for the tenant's breach of the tenancy agreement. As the tenant was not properly served with this amendment prior to the hearing, and as the tenant was not in attendance to accept or dispute this amendment, I am now allowing any further amendments to the landlords' application.

### **Issues(s) to be Decided**

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

### **Background and Evidence**

The landlords testified regarding the following facts. This fixed-term tenancy started in November of 2016, with rent currently set at \$2,000.00 per month. The landlords testified in the hearing that although \$1,000.00 was indicated on the tenancy agreement as the required security deposit for this tenancy, the tenant had failed to ever pay the landlords the deposit.

The landlords issued the 10 Day Notice on February 7, 2017 as the tenant failed to pay \$1867.00 in outstanding rent. The tenant had moved out on May 2, 2017, and did not pay the outstanding rent as follows: \$1,867.00 plus the full monthly rent for March 2017 through to May 2017. The landlords are seeking a monetary order for the unpaid rent in the sum of \$7,867.00.

### **Analysis**

**Section 26** of the Act, in part, states as follows:

### **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 landlords provided undisputed evidence at this hearing, as the tenant did not attend. I accept the landlords' testimony that the tenant did not pay rent in the amount of \$7,867.00 for this tenancy. Therefore, I find that the landlords are entitled to \$7,867.00 in rental arrears accrued during this tenancy.

### **Conclusion**

The landlords cancelled their application for an Order of Possession as the tenant had moved out of the rental suite.

I issue a \$7,867.00 Monetary Order in favour of the landlords, which allows the landlords to recover the unpaid rent. The tenant must be served with this Order as soon as possible. Should the tenant 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: May 9, 2017

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Residential Tenancy Branch