



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, OPR-DR, FFL

Introduction

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

- an order of possession for non-payment of rent pursuant to section 55;
- a monetary order for unpaid rent in the amount of \$800 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

This matter was reconvened from a non-participatory, direct request proceeding via an interim decision dated October 30, 2020.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:23 am in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 am. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified she served that the tenant with the interim decision, notice of reconvened hearing, supporting evidence package, and other required documents via registered mail on November 2, 2020. The landlord provided a Canada Post tracking number confirming this mailing which is reproduced on the cover of this decision. I find that the tenant is deemed served with this package on November 7, 2020, five days after the landlord mailed it, in accordance with sections 88, 89, and 90 of the Act.

Preliminary Issue – Order of Possession

At the outset of the hearing, the landlord advised me that she has sold the residential property and that the date of possession for the purchaser was October 27, 2020. Accordingly, the landlord is no longer entitled to an order of possession, as she does not have any right to the possession of the rental unit. I dismiss this portion of the application, without leave to reapply.

Issues to be Decided

Is the landlord entitled to:

- 1) a monetary order for \$800; and
- 2) recover the filing fee?

Background and Evidence

While I have considered the documentary evidence and the testimony of the landlord, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The parties entered into a written tenancy agreement starting December 1, 2019. Monthly rent was \$1550 and is payable on the fifteenth of each month. The tenant paid the landlord a security deposit of \$775, which the landlord transferred to the purchaser of the residential property to hold in trust for the tenant.

The landlord testified that, starting in September 2020, the tenant paid her rent after it was due. She testified that, as of the date she transferred the residential property to the purchaser, the tenant failed to pay \$800 of rent as follows:

Date	Rent Due	Rent Paid	Balance Due
15-Sep-20	\$1,550		\$1,550
16-Sep-20		\$400	\$1,150
23-Sep-20		\$350	\$800
15-Oct-20	\$1,550		\$2,350
16-Oct-20		\$800	\$1,550
17-Oct-20		\$750	\$800
Total Arrears			\$800

The landlord testified that, as part of the contract of purchase and sale, she paid the purchaser the *pro rata* amount of rent owed for the rental unit for the period of October 27 to November 14, 2020, as if she had received the full amount of rent owed for that period.

Analysis

Section 26(1) of the Act requires a tenant to pay rent when it is owed. Based on the testimony of the landlord, I find that the tenant failed to do this. I accept the landlord's testimony that the tenant is \$800 in arrears.

As such, per section 67 of the Act, I order the tenant to pay the landlord \$800.

Pursuant to section 72(1) of the Act, as the landlord has been successful in the application, she may recover their filing fee (\$100) from the tenant.

Conclusion

Pursuant to sections 67 and 72 of the Act, I order that the tenant pay the landlord \$900, representing the repayment of the rental arrears and the filing fee.

I order the landlord to serve a copy of this decision and the attached monetary order on the tenant as soon as possible.

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: January 15, 2021

Residential Tenancy Branch