



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Neighbourhood Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

MNRL-S, OPR, FFL

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the hearing package by registered mail on March 10, 2021 and was permitted to provide proof of such service during the hearing. I now have a Registered Domestic Customer Receipt addressed to the tenant and a Canada Post cash register receipt bearing that date, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on November 1, 2018 and the tenant still resides in the rental unit. Rent is based on the tenant's income, and was set at \$392.27 at the commencement of the tenancy and was raised on April 1 each year, being \$489.00 effective April 1, 2019; \$501.00 effective April 1, 2020 and \$504.00 effective April 1, 2021.

At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$420.00 which is still held in trust by the landlord, and no pet damage deposit was collected.

The landlord's agent further testified that the tenant fell into arrears of rent over time, and is currently in arrears the sum of \$3,201.00. On January 12, 2021 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by attaching it to the door of the rental unit. A copy has been provided for this hearing and it is dated January 12, 2021 and contains an effective date of vacancy of January 31, 2021 for unpaid rent in the amount of \$2,190.00 that was due on January 1, 2021.

A tenant ledger has been provided as evidence for this hearing which runs from March 01, 2020 to February 04, 2021 showing that the tenant made a rent payment of \$501.00 on February 4, 2021, leaving arrears outstanding of \$2,691.00. Since then, the tenant paid \$501.00 on March 4, 2021, which left the outstanding arrears the same, then on April 1, 2021 the tenant paid \$502.00, leaving a balance of \$2,693.00 and \$500.00 was paid on May 7, 2021 bringing the arrears down to \$2,697.00. No rent has been paid for June 1, 2021 and now arrears are \$3,201.00.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the notice to end the tenancy, and the landlord would be content with an Order of Possession effective June 30, 2021.

### Analysis

The *Residential Tenancy Act* specifies that once served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), the tenant has 5 days to pay the rent in full or dispute the notice by filing and serving the landlord with an Application for Dispute Resolution. If the tenant fails to do either, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, I am satisfied that the tenant was served with the Notice on January 12, 2021 by posting it to the door of the rental unit, which is deemed to have been served 3 days later. The tenant did not pay the outstanding rent within 5 days. The landlord's agent testified that the tenant has not

served an Application for Dispute Resolution, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession. Since the landlord has indicated an effective date of vacancy of June 30, 2021, I make that order.

I have also reviewed the Tenant Ledger provided by the landlord and I am satisfied that the tenant was in arrears of rent the sum of \$2,691.00 as of February 4, 2021. I also accept the undisputed testimony of the landlord's agent that the tenant paid \$501.00 on March 4, 2021, as well as \$502.00 on April 1, 2021 and \$500.00 was paid on May 7, 2021 bringing the arrears down to \$2,697.00. No rent has been paid for June 1, 2021 and now arrears are \$3,201.00, and I find that the landlord has established that amount.

Since the landlord has been successful with the application, the landlord is also entitled to recover the \$100.00 filing fee from the tenant.

I order the landlord to keep the \$420.00 security deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlord for the difference in the amount of \$2,881.00.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective at 1:00 p.m. on June 30, 2021.

I further order the landlord to keep the \$420.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,881.00.

This order is final and binding and may be enforced.

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: June 04, 2021

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Residential Tenancy Branch