



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlord: OPR-DR MNR-DR FFL
For the tenant: CNR-MT OLC RP

Introduction

This hearing was convened as a result of an Application for Dispute Resolution (application) by both parties, seeking remedy under the *Residential Tenancy Act* (Act). The landlord applied for an order of possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 2, 2021 (10 Day Notice), for a monetary order of \$4,500.00 for unpaid rent or utilities, and to recover the cost of the filing fee. The tenant applied for more time to make an application to cancel the 10 Day Notice, for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and for regular repairs to the unit, site or property.

An agent for the landlord, RH (agent) attended the teleconference hearing. The hearing process was explained to the agent, and the agent was given an opportunity to ask questions about the hearing process. Thereafter the agent gave affirmed testimony, was provided the opportunity to present their relevant evidence orally and in documentary form prior to the hearing and make submissions to me.

The tenant did not attend the hearing even though they applied for dispute resolution and were issued a Notice of Dispute Resolution Hearing dated September 16, 2021. After the 10-minute waiting period, the application of the tenants was dismissed **without leave to reapply** pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3, which address consequences for failing to attend a dispute resolution hearing.

I have reviewed all evidence before me that met the requirements of the RTB Rules. However, only the evidence relevant to the issues and findings in this matter are

described in this decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

The agent was informed at the start of the hearing that recording of the dispute resolution is prohibited under the RTB Rule 6.11. The agent was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the agent was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The agent did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the agent confirmed their email address at the outset of the hearing and stated that they were representing the landlord and understood that the decision and any order(s) would be emailed to them. As the tenants provided an email address, the decision will also be emailed to the tenants.

The agent testified that the landlord no longer requires an order of possession as the tenants vacated the rental unit in the middle of October 2021. As a result, I will not consider an order of possession further in this decision.

Issues to be Decided

- Is the landlord entitled to unpaid rent under the Act?
- Is the landlord entitled to a filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on April 1, 2021. The monthly rent is \$2,200.00 per month and is due on the first day of each month. The tenants did not pay a security deposit or pet damage deposit during the tenancy.

As the tenant's application was dismissed without leave to reapply, I consider the 10 Day Notice before me to be undisputed. It is signed, dated and is in the correct form. The agent testified that since being served with the 10 Day Notice the tenants owed a total of \$6,600.00 in unpaid rent as follows:

August 2021 \$2,200.00 owing
September 2021 \$2,200.00 owing
October 2021 \$2,200.00 owing

The landlord is seeking unpaid rent of \$6,600.00 plus the filing fee.

Analysis

Based on the undisputed testimony of the agent and the undisputed documentary evidence before me, and on the balance of probabilities, I find the following.

As noted above, as the tenant did not attend the hearing and did not file their application within the timeline provided for under the Act, I consider the 10 Day Notice undisputed by the tenants. I also note that an order of possession is not required by the landlord.

Pursuant to section 55(1.1) of the Act, I must grant the unpaid rent for \$6,600.00 pursuant to section 26 of the Act, which requires that rent is to be paid on the first day of each month. Pursuant to sections 67 and 72 of the Act, I grant the landlord a monetary order in the amount of **\$6,700.00** which also includes the \$100.00 filing fee.

Conclusion

The tenants' application was dismissed without leave to reapply.

The landlord has been granted a monetary order pursuant to sections 67 and 72 of the Act, for the amount of unpaid rent and filing fee of \$6,700.00. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision will be emailed to the parties as noted above. The orders will be emailed to the landlord only for service on the tenants.

The tenants are cautioned that they can be held liable for all costs related to the enforcement of the monetary order.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 14, 2022