



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR, OPL-4M, MNRL, FFL, CNR, MNDCT

Introduction

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (Act).

The Landlord's application for:

- Orders of Possession after issuing a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) and a 4 Month Notice to End Tenancy for Demolition (the 4 Month Notice),
- A Monetary Order of \$1,155.00 to recover the money for unpaid rent,
- Reimbursement of the filing fee.

And the Tenant's application for:

- Cancellation of the 10 Day Notice.
- Compensation for monetary loss or other money owed.

I find that the Tenant was served the Dispute Resolution Proceeding Package (the Proceeding Package) on June 11, 2023, by registered mail in accordance with section 89(1) of the Act, the fifth day after the registered mailing. The Landlord provided a copy of the Canada Post Receipt containing the tracking number to confirm this service.

The Tenant testified that they served the Proceeding Package in person to property manager RW. RW testified that he received the Proceeding Package, however, he did not forward it to the Landlord. I find the Landlord was duly served because it was the responsibility of the Landlord's agent to give it to the Landlord.

Both parties testified that the Tenant vacated the rental unit on September 11, 2023. I find I do not need to consider the merits of the 10-Day Notice or the 4 Month Notice as the tenancy has ended.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent?

- Is the Landlord entitled to recover the filing fee?
- Is the Tenant entitled to recover the cost of emergency repairs?

Background and Evidence

Both parties testified that the tenancy started on November 1, 2018, with monthly rent of \$1,200.00 due on the first day of each month. The Tenant paid a security deposit in the amount of \$600.00, which the Landlord continues to hold in trust.

NS stated the Tenant did not pay rent for August 2023, as they were entitled to compensation in the amount of one month's rent as per the 4 Month Notice. NS testified that the Tenant did not pay rent for September 2023 and vacated the rental unit on September 11, 2023.

The Tenant testified that they did not pay rent for July 2023. The Tenant stated that rats caused damage to the washing machine, dishwasher, vents, furnace and the crawlspace of the rental unit. The Tenant testified that they paid \$1,155.00 for the total cost of repairs to the rental unit. The Tenant stated that they withheld July's rent due to the cost of emergency repairs to the ducts in the rental unit. The Tenant stated he completed these repairs in November 2022.

NS testified that the Tenant received compensation for repairs completed in October 2022, and this matter was resolved by way of a settlement agreement through the Residential Tenancy Branch (RTB). NS provided the related Residential Tenancy Branch dispute file number for this matter. NS stated the Tenant did not ask for emergency repairs in November 2022.

The Tenant stated that the settlement covered the cost of repairs completed in October 2022, and that currently he is seeking the cost of emergency repairs for November 2022.

Analysis

Section 26 of the Act states that a tenant must pay rent to the landlord, regardless of whether the landlord complies with the Act, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the Act.

The Tenant admitted that they did not pay rent for July and had authority under the Act to withhold rent for August 2023. The Tenant stated that they withheld July's rent due to the cost of emergency repairs to the ducts in the rental unit.

However, the Tenant has failed to provide any proof that they complied with section 33 of the Act. Further, it is unreasonable to withhold rent in July 2023, when they claim to have made the repair in November 2022.

I find the Landlord is entitled to a monetary order for unpaid rent for July 2023, in the total amount of \$1,200.00. The \$600.00 security deposit has accrued \$9.14 in interest. I order the Landlord to retain the security deposit of \$609.14 in partial satisfaction of the unpaid rent.

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Conclusion

I grant the Landlord a Monetary Order in the amount of **\$690.86** under the following terms:

Monetary Issue	Granted Amount
A Monetary Order for Unpaid Rent for July and September 2023	\$1,200.00
Minus Security Deposit + interest	609.14
Authorization to recover the filing fee for this application from the Tenant under section 72 of the Act.	\$100.00
Total Amount	\$690.86

The Landlord is provided with this Order in the above terms and 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: October 13, 2023

Residential Tenancy Branch