



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR O MNRL-S

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear this matter. This hearing dealt with applications from both parties:

The landlord applied for:

- a Monetary Award for unpaid rent pursuant to section 67 of the *Act*.

The tenant applied for:

- a cancellation of the landlord's notice to end tenancy for unpaid rent pursuant to section 46 of the *Act*; and
- other unspecified relief.

Only the rental coordinators, B.T. and M.C. (the "landlords") for the landlord appeared at the hearing. The landlords were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlords confirmed receipt of the tenant's application for dispute resolution. The landlords stated that they sent their application for dispute resolution by way of Canada Post Registered Mail on September 25, 2017. A copy of the Canada Post Registered Mail receipt was submitted to the hearing as part of the landlords' evidentiary packages. Pursuant to sections 88, 89 & 90 of the *Act* the tenant is deemed served with the landlords' application for dispute and evidentiary package on September 30, 2017, five days after posting.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Background and Evidence

The landlords provided undisputed testimony that this tenancy began on August 11, 2011. Rent was originally \$2,000.00 and rose to \$2,015.00 over the course of the tenancy. A security deposit of \$1,000.00 collected at the outset of the tenancy continues to be held by the landlords.

At the hearing, the landlords explained that they suspected that the tenant had vacated the rental unit on October 13, 2017. On October 17, 2017 the landlords received an email from the tenant stating that she had vacated the unit in September 2017. When asked about the discrepancy in the dates presented, the landlords said that they had contacted the utility company who had informed them that the tenant had scheduled for the power to be shut off on October 13, 2017.

The landlords are seeking a monetary award for the rent which was unpaid for August, September and October 2017.

Analysis

The tenant had vacated the unit and the landlords took possession of the rental unit on October 17, 2017, therefore the tenant's application for a cancellation of the landlords' notice to end tenancy is dismissed. I will solely focus on the landlords' application for a monetary award.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlords to prove their entitlement to a claim for a monetary award.

Based on the oral testimony presented at the hearing by the landlords, I am satisfied that rent remains outstanding for August, September and October 2017. I find it highly probable that the tenant remained in the rental unit until October 2017 because it would be unlikely that a person would schedule a utility company to attend the property and turn off the power, an entire month after they had moved out. The tenant did not appear at the hearing and was unable to provide any testimony or evidence, refuting the

landlords' assertion. For these reasons, I allow the landlords to collect a monetary award for unpaid rent for August, September and October 2017.

Using the offsetting provisions contained in section 72 of the *Act*, I allow the landlords to retain the tenant's security deposit as partial compensation for the money owed.

Conclusion

The tenant's application is dismissed in its entirety.

I issue a monetary order in the landlords favour in the amount of \$5,045.00 as follows:

Item	Amount
Unpaid Rent for August 2017	\$2,015.00
Unpaid Rent for September 2017	2,015.00
Unpaid Rent for October 2017	2,015.00
Less Security Deposit	1,000.00
Total =	\$5,045.00

The landlords are provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: November 14, 2017

Residential Tenancy Branch