



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for unpaid rent.

The hearing was convened by telephone conference call and was attended by the Landlord and one of the Tenants (the “Tenant”), both of whom provided affirmed testimony. The Tenant also had an assistant present with her for support. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. Neither party raised any concerns regarding the service of documentary evidence.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”). However, I refer only to the relevant facts and issues in this decision.

At the request of the Landlord, copies of the decision and any Monetary Order issued in his favor will be e-mailed to him at the e-mail address provided on the Application. At the request of the Tenant, a copy of the decision will be mailed to her at the address provided in the hearing.

Preliminary Matters

Although the parties engaged in settlement discussions during the hearing, ultimately a settlement agreement could not be reached between them. As a result, I proceeded with the hearing and rendered a decision in relation to this matter under the authority

delegated to me by the Director of the Residential Tenancy Branch (the “Branch”) under Section 9.1(1) of the *Act*.

Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The tenancy agreement in the documentary evidence before me indicates that the tenancy began on August 1, 1998, at a monthly rent amount of \$850.00. In the hearing the Tenant stated that there was a rent increase at some point during the tenancy, however, a copy of the notice of rent increase was not before me for consideration and the Landlord testified that he is only seeking \$850.00 in rent per month.

The Landlord testified that the Tenants currently owe \$12,750.00 in outstanding rent for the period of October 2015 – April 2017. The Landlord provided a Monetary Order Worksheet and ledger showing the amounts owed and paid over the above noted time period, and testified that between October 1, 2015 – and April 30, 2017, the Tenants have only made 7 rent payments totalling \$3,400.00.

The Tenant denied that they owe \$12,750.00 in rent and stated that they made more payments than noted by the Landlord. In addition to this, the Tenant stated that they completed maintenance and repairs over the course of the long-term tenancy such as replacing two toilets, repairing the furnace, and removing fallen trees from the property. The Landlord testified that he was never advised of these repairs nor did he grant approval for the Tenants to deduct costs associated with these repairs and maintenance from the rent. In contrast, the Landlord testified that he actually incurred significant additional costs at the end of the tenancy for repairs and for cleaning not completed by the Tenants.

The Landlord acknowledged that he was lenient regarding the timing and the payment of rent, however, he stated that he attempted numerous times to reach the Tenants regarding the rent by both phone and e-mail without success. The Tenant denied that the Landlord made any attempts to contact them regarding the payment of rent and questioned the length of time the Landlord waited to make his claim. Further to this, the Tenant stated that the property was dirty when they moved in and argued that as they took care of the property as their home, made repairs when required, and did not hear

anything from the Landlord regarding outstanding rent, they do not owe the rent claimed by the Landlord.

Analysis

Although the Tenant argued that the Landlord took too long to bring their claim forward, section 60 of the *Act* states that if the *Act* does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned. While I understand and appreciate the position of the Tenants, there is no evidence before me that the Landlord applied outside of the time limit prescribed under section 60 of the *Act*. As a result, I find that the Landlord was not barred from making this claim when he did.

Based on the evidence and testimony before me, I find that the Tenants were required to pay at least \$850.00 in rent each month.

Section 28 of the *Act* states the following regarding the payment of rent”

Rules about payment and non-payment of rent

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

While the Tenant denied owing \$12,750.00 in rent, she did not submit proof of rent payment or any documentary evidence to establish that the Tenants had a right under the *Act* to deduct all or a portion of the rent owed. On the contrary the Landlord submitted a Monetary Order Worksheet and a ledger detailing the rent owed and paid from October 1, 2015 – April 1, 2017.

Based on the above, and keeping in mind that the burden of proof in this hearing is on a balance of probabilities, I find that the Tenants owe \$12,750.00 in rent to the Landlord. Pursuant to section 67 of the *Act*, the Landlord is therefore entitled to a Monetary Order in the amount of \$12,750.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$12,750.00. The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants 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: February 19, 2018

Residential Tenancy Branch