



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUN LIFE ASSURANCE COMPANY OF CANADA C/O BENTALL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary Order for unpaid rent, pursuant to sections 26 and 67;
- an Order of possession for unpaid rent pursuant to sections 46 and 55; and
- authority to retain the tenant's security deposit in partial satisfaction of their monetary claim for unpaid rent pursuant to section 38.

The tenant did not attend this hearing, although I left the teleconference hearing connection open for 12 minutes in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlord's leasing agent (the "landlord") and the building manager attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and building manager and I were the only ones who had called into this teleconference.

The landlord testified that she served the tenant with the notice of dispute resolution package by registered mail on April 20, 2018. The landlord provided Canada Post Tracking Number to confirm this registered mailing. I find that the tenant was deemed served with this package on April 25, 2018, 5 days after its mailing, in accordance with sections 89 and 90 of the *Act*.

The landlord testified that the tenant is no longer residing at the rental property and withdrew her request for an Order of possession.

Issue(s) to be Decided

- Is the landlord entitled to a monetary Order for unpaid rent pursuant to sections 26 and 67 of the *Act*?
- Is the landlord entitled retain the tenant's security deposit in partial satisfaction of their monetary claim for unpaid rent pursuant to section 38 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided undisputed testimony that this tenancy began on October 1, 2016 and ended at the end of April 2018. Monthly rent in the amount of \$1,500.00 was payable on the first day of each month. A security deposit of \$750.00 was paid by the tenant to the landlord.

The landlord testified that the tenant did not pay rent on April 1, 2018, when it was due. The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") with an effective date of April 20, 2018, on the tenant's door on April 7, 2018. As of April 20, 2018, the tenant had not moved out of the rental property. The landlord testified that the tenant moved out sometime after April 20, 2018.

Analysis

As the landlord provided undisputed testimony that the 10 Day Notice was posted on the tenant's door on April 7, 2018, I find that the tenant is deemed to have received the 10 Day Notice on April 10, 2018, 3 days after its posting, in accordance with sections 88 and 90 of the *Act*.

Section 26(1) of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement. I find that the tenant was obligated to pay the monthly rent in the amount of \$1,500.00 on April 1, 2018 which he failed to do. Pursuant to section 67 of the *Act*, I find that the tenant owes the landlord \$1,500.00 in unpaid rent.

Section 72(2) states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit or pet damage deposit due to the tenant. I find that the landlord is entitled to retain the tenant's entire security deposit in the amount of \$750.00 in part satisfaction of her monetary claim for unpaid rent against the tenant.

Conclusion

Pursuant to section 67 and 72 of the *Act*, I issue a monetary Order under the following terms, which allows the landlord to recover damages for unpaid rent:

Item	Amount
April 2018 Rent	\$1,500.00
Less security deposit	-\$750.00
Total	\$750.00

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: June 7, 2018

Residential Tenancy Branch