



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LIONS COURT HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S/FFL

Introduction

On April 26, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) requesting a Monetary Order for Unpaid Rent and to apply the security deposit to the claim, and to recover the cost of the Filing Fee. The matter was set for a participatory hearing via conference call.

The Landlord and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the Notice of Hearing information and the documentary evidence that I have before me.

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

Issues to be Decided

Should the Landlord be authorized to deduct the unpaid rent in April 2017, when the Tenant occupied the rental unit, from the security deposit?

Should the Landlord be reimbursed for the Filing Fee for this Application?

Background and Evidence

The Landlord and the Tenant agreed that the tenancy began on January 1, 2012 and that the 2018 rent of \$1,298.90 was due on the first of each month. The Landlord currently holds a security deposit in the amount of \$575.00.

The Landlord testified that there was a history between the Landlord and the Tenant that involved prior Applications for Dispute Resolution and as a result of an Order of Possession and a Review Consideration, the tenancy was ending; however, it was unclear as to exactly what day the Tenant was going to move out of the rental unit.

The Landlord stated that the Tenant paid rent for the month of March 2018 and did not pay any rent for the days for which she occupied the rental unit in April 2018. The Landlord said that he conducted a move-out inspection with the Tenant on April 9, 2018, and at that time, received the keys for the rental unit. The Tenant still had a wardrobe in her bedroom and requested some more time to make arrangements to remove the piece of furniture. The Landlord consented to give the Tenant some time and arrangements were made to move the wardrobe on April 15, 2018.

The Landlord had been planning on doing some repairs in the rental unit once the Tenant moved out and after receiving the keys and doing the move-out inspection, began repairs on the rental unit on April 10, 2018. The Landlord stated that he closed the bedroom door, where the wardrobe remained, and began work on the rental unit.

The Landlord is claiming for 9 days of unpaid rent to be applied against the Tenant's security deposit.

The Tenant testified that an opportunity for another place to rent came up suddenly and it was difficult to make arrangements to move out of the rental unit quickly. She stated that she had to move out in several steps and it was especially challenging to find someone to move her wardrobe.

The Tenant stated that she began to move out of the rental unit on April 2 or 3, 2018, and was back again on April 4 or 5, 2018, to complete most of her move. The Tenant acknowledged that she did a move-out inspection with the Landlord and returned the keys on April 9, 2018 and asked for permission to move the wardrobe at a later date.

The Tenant coordinated a mover to disassemble the wardrobe and move it on April 15, 2018 and liaised with the Landlord to gain access to the rental unit for this purpose. The Tenant testified that she did not pay any rent for April 2018. The Tenant also asked for any interest on the security deposit to be considered when calculating the return.

Analysis

Section 26 of the Act explains that the 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.

I accept the evidence of both the Tenant and the Landlord that the Tenant occupied the rental unit until April 9, 2018 and did not pay rent for 9 days in April. The Landlord had planned to do repairs on the unit and was unable to until the Tenant moved out, attended for an inspection and returned the keys on April 9, 2018. The Landlord accommodated the Tenant by allowing her to keep the wardrobe in the rental unit until April 15, 2018.

As I do not have any evidence before me that the Tenant had a right under this Act to deduct any of their rent, I find that the Tenant is in breach of Section 26 of the Act. Therefore, I find that the Landlord is authorized to deduct the unpaid rent for April 2017, when the Tenant occupied the rental unit, from the security deposit.

The Landlord's Application has merit and; therefore, I find that the Landlord should be reimbursed for the \$100.00 Filing Fee.

According to the Tenant and the Landlord, the rent for the month of April 2018, was \$1,298.90. As April has thirty days, the rent for each day would have been \$43.29. I have found that the Tenant occupied the rental unit without paying rent for nine days in April 2018; therefore, the Tenant owes the Landlord \$389.61 for unpaid rent.

Item	Amount
Unpaid rent for 9 days in April 2018	\$389.61
Reimbursement for the Filing Fee	100.00
Total due to the Landlord	\$489.61

The Landlord currently holds the Tenant's security deposit of \$575.00 and in accordance with Section 72(2) of the Act, I authorize the Landlord to deduct the amount

of the unpaid rent and the Filing Fee in the total amount of \$489.61 from the Tenant's security deposit.

Item	Amount
Tenant's Security Deposit	\$575.00
Amount due to the Landlord for unpaid rent and the Filing Fee	489.61
Balance of Security Deposit due to Tenant	\$85.39

I order the Landlord to return the remaining balance of the Tenant's security deposit in the amount of \$85.39 to the Tenant within 15 days of receiving this Decision.

In accordance with the Residential Tenancy Act Regulations, there has been no interest paid on security deposits since 2009; therefore, I have not calculated any interest on the Tenant's security deposit as the tenancy began in 2012.

Conclusion

In accordance with Section 72(2) of the Act, I authorize the Landlord to deduct 9 days of unpaid rent for April 2017, in the amount of \$389.61, from the Tenant's security deposit. In accordance with Section 72(2) of the Act, I authorize the Landlord to deduct the \$100.00 Filing Fee from the Tenant's security deposit. I order the Landlord to return the balance of the Tenant's security deposit, in the amount of \$85.39, to the Tenant within 15 days of receiving this Decision.

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 08, 2018

Residential Tenancy Branch