



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: FFL MNRL-S

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for:

- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlord PU attended the hearing by way of conference call, the tenants did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue - Service of the Landlords' Application for Dispute Resolution

The landlord PU testified that the tenants were served with the landlord's application for dispute resolution hearing package and evidence on April 27, 2018 by way of registered mail to the rental address. The landlords served the tenants as soon as possible after filing their application on April 25, 2018. The landlord provided a Canada Post tracking number the hearing.

The landlord testified that the tenants moved out shortly thereafter, on April 30, 2018, and did not provide a forwarding address.

Special rules for certain documents

89 (1) *An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:*

(a) by leaving a copy with the person;

(b) if the person is a landlord, by leaving a copy with an agent of the landlord;

(c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

In this case the landlords had served the tenants by way of registered mail to the address at which they resided at the time the package was sent. Although the tenants moved shortly thereafter, I find that the landlords had served the tenants at the address at which they reside by way of registered mail, in accordance with section 89 (1)(c) of the Act. On this basis, I find the tenants deemed served with the application and evidence on May 2, 2018, five days after registered mailing.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation for unpaid rent?

Are the landlords entitled to recover their filing fee for this application?

Background and Evidence

The landlord PU testified regarding the following facts. This month-to-month tenancy began on January 15, 2016, with current monthly rent in the amount of \$1,190.00 payable on the first day of each month. The landlords collected, and still hold, a security deposit in the amount of \$575.00 for this tenancy. The tenants moved out on April 30, 2018 without paying the outstanding rent to the landlords.

The landlord testified that the tenants owe the following in outstanding rent for this tenancy:

Item	Amount
Unpaid Rent for July 2017	\$550.00
Unpaid Rent for August 2017	600.00
Unpaid Rent for September 2017	500.00

Unpaid Rent for October 2017	1,190.00
Unpaid Rent for November 2017	790.00
Unpaid Rent for March 2018	1,190.00
Unpaid Rent for April 2018	595.00
Total Monetary Order Requested	\$5,415.00

The landlord provided verification of the electronic payment transfers to support their claim.

The landlords are seeking a monetary order for the unpaid rent, as well as recovery of the filing fee.

Analysis

Section 26 of the Act, in part, states as follows:

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.*

The landlords provided undisputed evidence at this hearing, as the tenants did not attend.

The landlords provided undisputed evidence that the tenants failed to pay the outstanding rent totalling \$5,415.00 for this tenancy. Accordingly I find that the landlords are entitled to \$5,415.00 in unpaid rent for this tenancy.

The landlords continue to hold the tenants' security deposit of \$575.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlords to retain the tenants' security deposit in partial satisfaction of the monetary claim.

As the landlords were successful in their application, I find that they are entitled to recover the filing fee for this application.

Conclusion

I issue a \$4,940.00 Monetary Order in favour of the landlords, which allows the landlords to recover the \$5,415.00 in unpaid rent, the filing fee for this application, and also allows the landlords to retain the tenants' \$575.00 security deposit in partial satisfaction of the monetary claim.

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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 8, 2018

Residential Tenancy Branch