Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNR, FF

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 section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord provided undisputed affirmed testimony the tenants were served with the notice of hearing package and the submitted documentary evidence in person on November 30, 2017. The landlord claimed that a witness was present, but has not provided a witness or a witness statement. I accept the undisputed affirmed testimony of the landlord and find as such that the tenants have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on September 1, 2012 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated August 12, 2012. The monthly rent began at $600.00 payable on the 1st day of each month. A security deposit of $300.00 was paid on September 1, 2012.

The landlord seeks a monetary claim of $3,000.00 for unpaid rent which consists of:

$3,000.00   July 2017- November 2017 (5 months @ $600.00)

In support of this claim the landlord has provided A copy of a note signed by both parties dated November 20, 2017 which states in part that the tenancy began on September 1, 2012 for $600.00 per month and acknowledging the non-payment of rent from July 2017 to November 2017 owing $3,000.00.

Analysis

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, accept the landlord's undisputed affirmed evidence that the tenants were in arrears of $3,000.00 for the period July 2017 to November 2017 as confirmed by the dated and signed note by both parties, submitted by the landlord.

The landlord has established a claim for $3,000.00 in unpaid rent. The landlord having been successful is also entitled to recovery of the $100.00 filing fee. I also authorize the landlord to retain the $300.00 security deposit in partial satisfaction of the claim and grant the landlord a monetary order for the difference of $2,800.00.

Conclusion

The landlord is granted a monetary order for $2,800.00.

This order must be served upon the tenants. Should the tenants fail to comply with the order, the 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: July 06, 2018

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Residential Tenancy Branch