



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPC, MNR-S, MT, CNC, ERP, MNDC, FF

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for cause pursuant to section 55;
- 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.

The tenants applied for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The landlord's agent (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 claims that the tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail. I accept the undisputed affirmed testimony of the landlord and find that the tenants have been properly served and find that the tenants have been sufficiently served as per section 90 of the Act.

Preliminary Issue(s)

At the outset it was clarified with the landlord that although the landlord is aware that the tenants had filed an application for dispute, the landlord confirmed that service of the notice of hearing package was not made by the tenants. As such, the tenants' application for dispute is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

The landlord also confirmed that the tenants had vacated the rental unit without notice and that the landlord confirmed this on August 7, 2018 via a text message with the tenants. The landlord stated that the tenant advised the landlord that they had vacated the rental premises on August 4, 2018. As such, the landlord stated that the request for an order of possession is no longer required as possession has already been obtained. No further action for this portion of the claim is required. The hearing shall proceed on the landlord's request for unpaid rent and authorization to retain the security deposit only.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

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 both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

This tenancy began on March 4, 2018 on a fixed term tenancy ending on February 28, 2019 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated March 3, 2018. The monthly rent is \$1,500.00 payable on the 1st day of each month. A security deposit of \$750.00 was paid on March 3, 2018.

The landlord seeks a monetary claim of \$1,500.00 for unpaid rent for July 2018.

The landlord claims that the tenants failed to pay rent of \$1,500.00 for July 2018 as required under the signed tenancy agreement dated March 3, 2018. The landlord has provided a copy of a tenant ledger which outlines that the tenants had failed to pay rent for July 2018.

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, I accept the undisputed affirmed evidence of the landlord and find that the tenant has failed to pay rent of \$1,500.00 for July 2018 as required by the signed tenancy agreement.

Having been successful, I authorize the landlord to retain the \$750.00 security deposit in partial satisfaction of the claim and grant the landlord a monetary order for \$750.00.

Conclusion

The landlord is granted a monetary order for \$750.00.

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: September 14, 2018

Residential Tenancy Branch