



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, OPR, FFL

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;
- an order of possession for unpaid rent pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord named in this application, and had authority to speak on the landlord's behalf.

The landlord testified that on August 3, 2018 the landlord forwarded the landlord's application for dispute resolution and supporting documents via registered mail to the tenant. Based on the testimony of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the application and supporting documents.

At the outset of the hearing the landlord testified that the tenant vacated the rental unit on August 5, 2018. Consequently, the landlord is no longer seeking an order of possession and this portion of the landlord's application is dismissed without leave to reapply.

Preliminary Issue – Amendment of Landlord's Application

Based on the tenant's early vacancy, the landlord seeks to amend the landlord's application to reduce the monetary claim. Specifically, the landlord seeks to reduce the monetary claim from \$3,000.00 for unpaid July, August and September rent to \$1,500.00 for July and half of August 2018 unpaid rent. Based on the undisputed evidence and in accordance with section 64(3)(c) of the *Act*, I amend the landlord's application to a monetary claim for July and half of August unpaid rent of \$1,500.00 total.

Issue(s) to be Decided

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

Is the landlord entitled to a monetary order to keep all or part of the security deposit?

Is the landlord authorized to recover the filing fee for this application from the tenant?

Background and Evidence

As per the submitted tenancy agreement and testimony of the landlord, the tenancy began on May 1, 2018 on a month to month basis. Rent in the amount of \$1,000.00 was payable on the first of each month. The tenant remitted a security deposit in the amount of \$500.00 at the start of the tenancy, which the landlord still retains in trust.

The landlord seeks a monetary order of \$1,500.00 for July and half of August 2018 rent. The landlord claimed that the tenant did not pay rent for the above two months.

The landlord is also seeking to recover the \$100.00 filing fee for this application from the tenant.

Analysis

Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement, which is the first day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I find that the landlord proved that the current rent for this unit is \$1,000.00. I find the landlord provided undisputed evidence that the tenant failed to pay full rent for July and August 2018. Therefore, I find that the landlord is entitled to \$1,500.00 in rent.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for the application, for a total award of \$1,600.00.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in the total amount of \$500.00 in partial satisfaction of the monetary award and I grant an order for the balance due \$1,100.00.

Conclusion

The landlord's application for an order of possession is dismissed without leave to reapply.

I issue a monetary order in the landlord's favour in the amount of \$1,100.00 against the tenant.

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 06, 2018

Residential Tenancy Branch