



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, 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 tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

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

The landlord testified that on February 9, 2018 he forwarded the landlord's application for dispute resolution hearing package via registered mail to each of the tenants. The landlord provided two Canada Post receipts and tracking numbers as proof of service. Based on the testimony of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the application and supporting documents on February 14, 2018, the fifth day after their registered mailing.

Issue(s) to be Decided

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

Is the landlord authorized to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested?

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

Background and Evidence

As per the submitted tenancy agreement and testimony of the landlord, the tenancy began on September 1, 2011 on a fixed term until August 31, 2012 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$1,381.00 was payable on the first of each month. The tenant remitted a security deposit in the amount of \$612.50 at the start of the tenancy, which the landlord still retains in trust. The tenant vacated the rental unit January 2, 2018.

The landlord seeks a monetary order of \$3,674.00 for unpaid rent from October to December 2017. The landlord claimed that the tenants have only paid \$500.00 rent for the above three months.

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

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*, *Residential Tenancy Regulation* (the "*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 \$1,381.00. I find the landlord provided undisputed evidence that the tenant failed to pay full rent from October to December 2017. Therefore, I find that the landlord is entitled to \$3,643.00 in rent ($\$1,381.00 \times 3 = \$4,143.00 - \500.00).

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 \$3,743.00.

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 \$612.50 in partial satisfaction of the monetary award and I grant an order for the balance due \$3,130.50.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$3,130.50 against the tenants.

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 10, 2018

Residential Tenancy Branch