



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL S MNDCL 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, damages and loss pursuant to section 67; 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 15 minutes. 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 testified that they sent the landlord's application for dispute resolution and evidence to the tenants by registered mail on May 4, 2018. The landlord provided two Canada Post tracking numbers as well as a printout showing the mail being refused by the tenants as evidence. Based on the evidence I find that the tenants are deemed served with the landlords' package in accordance with sections 88, 89 and 90 of the *Act* on May 9, 2018, five days after mailing.

Issue(s) to be Decided

Are the landlords entitled to a monetary order as claimed?

Are the landlords authorization to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord gave undisputed evidence regarding the following facts. This fixed term tenancy began in August, 2014. The monthly rent was \$1,000.00 payable by the first of each month. A security deposit of \$500.00 was paid at the start of the tenancy. The landlord was permitted to retain the security deposit in partial satisfaction of a monetary

award issued at a previous hearing under the file number on the first page of this decision.

The landlord testified that the tenants failed to pay rent for the months of the April and May, 2018 and abandoned the property without providing notice in May, 2018. The landlord seeks a monetary award of \$2,500.00 for unpaid rent for the months of April and May as well as loss of rental income for June, 2018. The landlord testified that they were able to find a new occupant for the unit to begin a new tenancy as of June 15, 2018.

The landlord said that tenants failed to clean the rental unit and they incurred costs for cleaning and repairs after the tenants abandoned the suite. The landlord submitted receipt and invoices into evidence in support of their monetary claim for \$646.38.

The landlord said that the tenants failed to pay utilities as required on the tenancy agreement and the amount of arrears for the utilities is \$391.88. The landlord submitted the invoices from utility companies as evidence of the amount.

The landlord said that during the tenancy the tenants failed to pay their rent on time and they incurred NSF charges for the rental cheques not honored. The landlord submitted the bank statements showing the charges incurred. The landlord seeks a monetary award of \$175.00 for these losses.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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. The claimant also has a duty to take reasonable steps to mitigate their loss.

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 rent for this unit was \$1,000.00. I find the landlord provided undisputed evidence that the tenants failed to pay full rent for April and May, 2018. I accept the landlord's evidence that the tenants abandoned the rental suite without notice and the landlord suffered a loss of rental income for June, 2018. The landlord said they managed to mitigate their losses by renting the suit to a new tenant in Mid-June, 2018 and are therefore seeking half a month's rent . I find that the landlord is entitled to a monetary award of \$2,500.00 for this item.

I accept the undisputed evidence of the landlord that they suffered damages and loss I accept the evidence including the testimony, written submissions and documents submitted that the total amount of loss for cleaning, repairs, NSF fees, and unpaid utilities is \$1,213.26. Accordingly, I issue a monetary award in the landlords' favour in that amount.

As the landlords' application was successful the landlords may also recover the \$100.00 filing fee.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$3,813.26 against the tenants. The tenants must be served with this Order as soon as possible. Should the tenants 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: November 1, 2018

Residential Tenancy Branch