



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR MNSD FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

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

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 11:20 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and make submissions.

The landlord testified that on February 11, 2019, copies of the Application for Dispute Resolution and Notice of Hearing was sent to all three tenants by registered mail. The landlord provided a registered mail receipts and tracking numbers in support of service.

Based on the above evidence, I am satisfied that the tenants were deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenants.

The landlord advised that since the filing of this application, the tenants have vacated the rental unit; accordingly, the landlord is no longer seeking an order of possession.

Issues

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

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

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

Background and Evidence

The tenancy began on August 1, 2017. The monthly rent during the period relevant to this dispute was \$1768.00 payable on the 1st day of each month. The tenants paid a security deposit of \$850.00 at the start of the tenancy which the landlord continues to hold.

The landlord's claim is for outstanding rent plus late fees in the amount of \$5026.00. The landlord testified that this includes \$25.00 late fees for the months of November and December 2018, rent arrears from December 2018 in the amount of \$1440.00, plus unpaid rent for January and February 2019. The landlord submitted a monetary order worksheet detailing the amounts claimed plus a tenant rent ledger in support of the outstanding amount claimed.

Analysis

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the landlord's uncontested evidence and find that the tenant was obligated to pay monthly rent in the amount of \$1768.00 but failed to pay rent in full for the period of December 2018 to February 2019. I accept the landlord's claim for outstanding rent plus late fees of \$5026.00.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$5126.00.

The landlord continues to hold a security deposit of \$850.00. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$4276.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$4276.00. 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: March 21, 2019

Residential Tenancy Branch