



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes MNR MNSD FF

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;
- 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 1:45 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.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 January 10, 2019, copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant by registered mail. The landlord provided registered mail receipts and tracking numbers in support of service.

Based on the above evidence, I am satisfied that the tenants were 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.

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 November 1, 2018 with a monthly rent of \$1395.00 payable on the 1st day of each month. The tenants paid a security deposit of \$697.50 at the start of the tenancy which the landlord continues to hold. At the move-out inspection the tenants provided written authorization for a deduction of \$500.00 for liquidated damages from the security deposit. The balance of the security deposit retained by the landlord is therefore \$197.50.

The landlord's claim is for outstanding rent for the month of January 2019. The landlord testified that the tenants provided notice on December 27, 2019 that they would be vacating the rental unit on January 8, 2019. The landlord testified the tenants did not pay any rent for January 2019. The landlord testified that they were not able to re-rent the unit until March 1, 2019.

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 tenants were obligated to pay monthly rent in the amount of \$1395.00 but failed to pay rent for the month of January 2019 and did not vacate the rental unit January 8, 2019.

Although the monthly rent was \$1395.00 the landlord's application and monetary order worksheet only reflects an amount claimed of \$697.50. The landlord's claim is therefore limited to this amount as the tenants have not been put on notice of any additional claim.

The landlord is awarded \$697.50 for unpaid January 2019 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 this application for a total monetary award of \$797.50.

After the authorized deduction, the landlord continues to hold a security deposit in the balance of \$197.50. 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 \$600.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$600.00. 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: April 30, 2019

Residential Tenancy Branch