



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL MNDCL-S MNRL-S OPC OPR**

Introduction

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

- Authorization to recover the filing fee for this application from the tenant pursuant to section 72;
- A monetary order for damages or compensation and authorization to retain the security deposit pursuant to sections 38 and 67;
- A monetary order for unpaid rent or utilities and authorization to retain the security deposit pursuant to sections 38 and 67;
- An order of possession for cause pursuant to sections 47 and 55; and
- An order of possession for unpaid rent pursuant to sections 46 and 55.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m.

The landlord attended the hearing, ("landlord"), together with his agent, SA. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

In accordance with Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* ("Rules"), this hearing was conducted in the absence of the tenant.

The landlord's agent testified she served the landlord's application for dispute resolution on the tenant by sending by registered mail to his address on March 4, 2019. The tracking number was provided and is listed on the cover page of this decision. In

accordance with sections 89 and 90 of the *Act*, I find that the tenant is deemed served with the landlord's application on March 9, 2019, five days after its mailing.

Preliminary Issue

The landlord's agent advised the tenant had paid rent for January 2019 and the monetary order sought should be amended to reflect this. Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the landlord's application to seek rent for the months of February, March and April 2019.

Preliminary Issue

The landlord testified that the tenant vacated the rental unit on April 4, 2019. The landlord no longer seeks an order of possession and I dismiss this relief sought in the landlord's applications pursuant to Rule 6.2 of the Rules of Procedure.

Issue(s) to be Decided

Is the landlord entitled to compensation for loss of rent for February, March and April 2019?

Can the landlord retain the security deposit in partial satisfaction of a monetary order?

Can the landlord recover the filing fee for this application?

Background and Evidence

The landlord provided the following undisputed testimony. There was a signed tenancy agreement, however it was not provided as a document in these proceedings. The month to month tenancy agreement was signed on April 22, 2016 with rent set at \$1,550.00 per month. A security deposit in the amount of \$775.00 was given to the landlord which he retains in trust.

The tenant stopped paying rent on February 1, 2019. On February 3, 2019, the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenant has not paid rent for February, March and April 2019. The tenant moved out of the rental unit on April 4, 2019 and did not provide a forwarding address. A new tenant has not been secured for April.

Analysis

Section 26 of the *Act* provides clear rules about payment and non-payment of rent.

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.

The landlord had given undisputed testimony that the tenant did not pay rent for the period from February 1 to April 4, 2019 and he is not receiving rent for the remainder of April, 2019. I find the landlord is entitled to compensation for the months of February and March and April pursuant to section 67 of the *Act*.

Rent	Amount
February 2019	\$1,550.00
March 2019	\$1,550.00
April 2019	\$1,550.00
Total	\$4,650.00

As the landlord's application was successful, the landlord is entitled to recover the \$100.00 filing fee for the cost of this application.

The landlord continues to hold the tenant's security deposit in the amount of \$775.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the entire security deposit in partial satisfaction of the monetary claim.

Item	Amount
Monetary order	\$4,650.00
Filing fee	\$100.00
Less security deposit	(\$775.00)
Total	\$3,975.00

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$3,975.00**.

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 11, 2019

Residential Tenancy Branch