



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes MNR 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 recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and make submissions. No issues were raised with respect to service of the landlord's application.

Issues

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

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 with a monthly rent of \$1400.00 payable on the 1st day of each month. The tenant paid a security deposit of \$700.00 at the start of the tenancy which the landlord continues to hold. On January 14, 2019 the tenant provided written notice to end the tenancy with an effective date of February 28, 2019. The tenant vacated the unit on February 9, 2019.

The landlord's claim is for outstanding rent in the amount of \$1400.00 for February 2019. The landlord testified that the tenant failed to pay rent for the final month of the tenancy.

The tenant acknowledged the rent was not paid and argued that it was due to the landlord not providing adequate heat and a working refrigerator.

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 find that the tenant was obligated to pay monthly rent in the amount of \$1400.00 for February 2019 but failed to pay rent for this month. The effective date of the tenant's notice was not until February 28, 2019; therefore the tenant was still responsible to pay rent for this final month. The tenant did not have a right under the Act to deduct all or a portion of the rent. Even if the landlord was in breach of a material term of the tenancy as alleged by the tenant, the tenant still did not vacate the unit until February 9, 2019 which is 9 days after the rent was payable under the Act.

I accept the landlord's claim for outstanding rent of \$1400.00.

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 \$1500.00.

The landlord continues to hold a security deposit of \$700.00. Although the landlord's application does not seek to retain the security deposit, using the offsetting provisions of section 72 of the Act, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$800.00.

Conclusion

Pursuant to section 67 of the Act, I grant the landlord a Monetary Order in the amount of \$800.00. Should the tenant 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: June 07, 2019

Residential Tenancy Branch