



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNRL-S

Introduction

This hearing was scheduled to convene at 1:30 p.m. this date by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities, an order permitting the landlord to keep all or part of the pet damage deposit or security deposit, and to recover the filing fee from the tenants for the cost of the application.

The landlord attended the hearing with another person to assist, however the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenants joined the call. The landlord testified that each of the 2 tenants was served with the Application for Dispute Resolution and notice of this hearing (the Hearing Package) by registered mail on May 15, 2019 to an address given by one of the tenants. The landlord learned that the postal code was incorrect, and upon obtaining the correct one, the landlord sent the Hearing Packages to that address.

The landlord has provided a copy of a Canada Post cash register receipt bearing that date and 2 registered mail tracking numbers, as well as 2 Canada Post tracking delivery progress documents, both showing that the items were refused by the recipients and returned to sender. The *Residential Tenancy Act* states that documents served in that manner are deemed to have been served 5 days later, and I find that both tenants have been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid rent?

- Should the landlord be permitted to keep a portion of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this month-to-month tenancy began on August 1, 2017 and ended on April 30, 2019. Rent in the amount of \$900.00 per month was payable on the 1st day of each month and was increased to \$935.00 per month effective November 1, 2018. Copies of the tenancy agreement and Notice of Rent Increase have been provided as evidence for this hearing.

At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$450.00, and the landlord returned \$285.00 to the tenants on May 13, 2019. The remaining \$165.00 is still held in trust by the landlord. The rental unit is a suite in a heritage home containing 5 suites, and the landlord is a co-owner of the property.

The tenants did not pay rent in full for the month of March, 2019, leaving \$85.00 outstanding, and did not pay any rent for April. At the beginning of April the tenants sent a text message to the landlord stating that the tenants will vacate by the end of April, 2019, however no rent was paid.

The landlord received a forwarding address of the tenants in writing on May 13, 2019 and a copy of the note has been provided as evidence for this hearing. The tenants have not served the landlord with an Application for Dispute Resolution claiming the balance of the security deposit.

The landlord seeks \$1,020.00 for unpaid rent as well as recovery of the \$100.00 filing fee and an order permitting the landlord to keep the \$165.00 security deposit in partial satisfaction. The rental unit was re-rented for May 1, 2019.

Analysis

A tenant giving notice to end a tenancy must give it in writing, not by text message, and must give it the day before the day rent is payable under the tenancy agreement. The landlord testified that the tenants did not do so, but the landlord was successful in re-renting for May 1, 2019.

I accept the undisputed testimony of the landlord that the tenants left without paying the outstanding rent for March, 2019 in the amount of \$85.00 as well as any rent for April, 2019. I find that the landlord has established a claim of \$935.00 for April rent and \$85.00 for March rent, for a total of \$1,020.00.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

I order the landlord to keep the remaining \$165.00 security deposit in partial satisfaction and I grant a monetary order in favour of the landlord for the difference in the amount of \$955.00.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the remaining \$165.00 security deposit and I grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$955.00.

This order is final and binding and may be enforced.

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 17, 2019

Residential Tenancy Branch