



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL OPR FFL

Introduction

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

- An order of possession pursuant to section 55;
- A monetary award for unpaid rent pursuant to section 67; and
- Authorization to recover the filing fee from the tenants pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord DML (the "landlord") appeared and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that the application for dispute resolution and evidence was served on each of the named tenants by registered mail sent on May 7, 2019. The landlord provided two valid Canada Post tracking numbers as evidence of service. Based on the evidence I find that each of the tenants was deemed served with the landlord's materials on May 12, 2019, five days after mailing, in accordance with sections 88, 89 and 90 of the Act.

At the outset of the hearing the landlord said that there had been a previous hearing under the file number on the first page of this decision. In the earlier hearing of May 23, 2019, an Order of Possession in the landlord's favour was issued ending the tenancy. Accordingly the landlord withdrew the portion of the present application seeking an Order of Possession.

The landlord said that the monetary amount of the claim sought has changed. The landlord said that since filing the application additional rent has become due and owing. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlords' Application to increase the landlords' monetary claim from \$4,800.00 to \$5,400.00 as the additional amount of rent arrears could be reasonably anticipated.

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?

Are the landlords entitled to recover their filing fee from the tenants?

Background and Evidence

The rent for this periodic tenancy is \$1,800.00 payable by the first of each month. A security deposit of \$900.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord gave evidence that the tenants failed to pay rent for March, April and May, 2019. The landlord testified that the total rental arrears as of June 18, 2019 is \$5,400.00. The landlord submitted copies of bounced cheques as evidence of non-payment.

Analysis

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,800.00. I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$5,400.00. I issue a monetary award in the landlords' favour for unpaid rent of \$5,400.00 as at June 18, 2019, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlords' application was successful, the landlords are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit currently being held of \$900.00 in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$4,600.00, which allows the landlord to recover unpaid rent and the filing fee for their application and retain the security deposit for this tenancy.

The tenant must be served with this Order as soon as possible. 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 18, 2019

Residential Tenancy Branch