



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL MNDCL-S

Introduction

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

- A monetary award for damages and loss pursuant to section 67;
- Authorization to retain the security deposit for this tenancy pursuant to section 38; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 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 was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with their application for dispute resolution and evidence by registered mail sent to a forwarding address provided by the tenant on May 8, 2019. The landlord submitted a copy of the Canada Post receipt as evidence of service. Based on the evidence I find that the tenant was deemed served with the landlord's materials on May 13, 2019, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to retain the security deposit for this tenancy?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

This tenancy began in April 2018. The monthly rent was \$2,150.00 payable on the first of each month. A security deposit of \$1,075.00 was collected at the start of the tenancy and is still held by the landlord.

The tenant gave the landlord notice of their intention to end the tenancy on April 1, 2019. The tenant vacated the rental suite on April 30, 2019.

The landlord seeks the equivalent of 1 Month's rent for May 2019 as they submit the tenant did not provide sufficient notice of their intention to end the tenancy.

Analysis

A tenant must pay rent when it is due, whether or not the landlord complies with the *Act*, regulations or tenancy agreement pursuant to section 26(1) of the *Act*. Section 45 of the *Act* explains that a tenant may end a tenancy by giving the landlord notice which will be effective on a date not earlier than one month after the date the landlord receives the notice.

I find that, as the tenant gave notice of their intention to end the tenancy on April 1, 2019 the effective date of the end of tenancy was May 31, 2019. I find that the tenant was obligated to pay the monthly rent in the amount of \$2,150.00 on May 1, 2019. I accept the evidence that the tenant failed to pay the full rent on that date.

Section 67 of the *Act* states, if damage or loss results from a party not complying with this *Act*, the regulations or a *tenancy agreement*, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that a violation of the tenancy agreement occurred by the tenant who failed to pay the full rent owing on May 1, 2019. Therefore, the landlord is entitled to a monetary award in the amount of \$2,150.00, the equivalent of one month's rent.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$1,075 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

As the landlord was successful in their application the landlord is entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

I issue a monetary Order in the landlord's favour against the tenant in the amount of \$1,175.00.

The landlord is provided with the Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with the Order, the 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: August 12, 2019

Residential Tenancy Branch