



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL MNRL OPR

Introduction

This hearing dealt with the landlords' 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 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 landlords attended and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord DS (the "landlord") primarily spoke on behalf of both co-landlords.

The landlord testified that they had served their application for dispute resolution and evidence on the tenant by registered mail sent on August 20, 2019. The landlord provided a valid Canada Post tracking number as evidence of service. Based on the evidence I find the tenant is deemed served with the landlord's materials in accordance with sections 88, 89 and 90 of the Act on August 25, 2019, five days after mailing.

At the outset of the hearing the landlord said the tenant has vacated the rental unit and withdrew the portion of their application seeking an Order of Possession.

Issue(s) to be Decided

Are the landlords entitled to a Monetary Order as claimed?
Are the landlords entitled to recover the filing fee from the tenant?

Background and Evidence

This periodic tenancy began in November, 2019. The monthly rent was \$1,500.00 payable on the first of each month. No security deposit was collected for this tenancy. The tenant occupied the rental unit until sometime in August, 2019. The tenant failed to pay rent for the months of June, July and August, 2019 and there is a rental arrear of \$4,500.00 as at the date of the hearing, October 17, 2019.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. The claimant also has a duty to take reasonable steps to mitigate their loss.

I accept the undisputed evidence of the landlords that rent was \$1,500.00 payable on the first of each month. I accept the evidence that there is a rental arrear of \$4,500.00. Accordingly, based on the evidence, I find the landlord is entitled to a monetary award in that amount.

As the landlords were successful in their application they are entitled to recover their filing fee from the tenant.

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$4,600.00, allowing them to recover the unpaid rent and filing fee for this application. 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: October 7, 2019

Residential Tenancy Branch