



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, OPC, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for monetary compensation for unpaid rent, to retain the security deposit towards compensation owed, for an Order of Possession based on a One Month Notice to End Tenancy for Cause (the “One Month Notice”), and for the recovery of the filing fee paid for the Application for Dispute Resolution.

The Landlord and Tenant were both present for the hearing and were affirmed to be truthful in their testimony. The Tenant confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Landlord’s evidence. The Tenant did not submit any evidence prior to the hearing.

I have considered all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matters

During the hearing the parties confirmed that the Tenant moved out of the rental unit at the end of October 2019. Therefore, the Landlord withdrew his claim for an Order of Possession on the One Month Notice. Pursuant to Section 64(3)(c) of the *Act*, I amend the application to remove the Landlord’s claim for an Order of Possession.

Issues to be Decided

Is the Landlord entitled to monetary compensation for unpaid rent?

Should the Landlord be authorized to retain the security deposit towards compensation found to be owing?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The parties were in agreement as to the details of the tenancy agreement which were confirmed by the tenancy agreement that was submitted into evidence. The tenancy began on March 1, 2019. Rent in the amount of \$1,300.00 was due on the first day of each month. The Tenant paid a security deposit of \$650.00 and pet damage deposit of \$250.00 at the start of the tenancy and of which the Landlord still holds. The parties agreed that the Tenant moved out at the end of October 2019.

The Landlord has applied for compensation in the amount of \$1,500.00 which he stated was \$100.00 that was unpaid in August 2019, \$1,300.00 for unpaid rent for September 2019, plus the \$100.00 filing fee. The Landlord also noted that October 2019 rent was unpaid but stated that he did not apply for this or amend the application to include a claim for October 2019 rent.

The Tenant stated that she was offered a \$500.00 per month rent reduction due to disturbance from construction occurring above her rental unit. As such, she stated that for August 2019 she applied the security and pet damage deposit and along with the \$500.00 rent reduction she therefore does not owe any money for August 2019 rent.

The Tenant stated that for September 2019 she paid \$1,200.00 towards rent.

The Landlord disagreed that any rent reductions were provided and also stated that the parties did not agree to have the deposits put towards the rent for August or September 2019.

The Landlord submitted banking information into evidence on which he circled payments made by the Tenant. The information shows a payment of \$1,300.00 made

on August 2, 2019 and a payment of \$1,200.00 made on September 3, 2019. The banking information does not show transactions beyond September 3, 2019.

Analysis

As stated in Section 26 of the *Act*, a tenant must pay rent when it is due as per the tenancy agreement. The parties were in agreement that rent in the amount of \$1,300.00 was due on the first day of each month which was confirmed by the tenancy agreement. Therefore, I find that the Tenant owed an amount of \$1,300.00 on the first of each month.

Although the Tenant provided testimony that the parties had agreed upon a rent reduction, the Landlord denied this. I also find that I have no evidence before me that the Tenant was provided authorization to reduce rent by \$500.00. The parties were also not in agreement that an arrangement had been made to put the security deposit or pet damage deposit towards rent. Therefore, in light of the conflicting testimony of the parties and in the absence of evidence to confirm otherwise, I find that the Tenant owed \$1,300.00 per month for rent as per the tenancy agreement.

The Landlord provided testimony that the Tenant owed \$100.00 for August 2019 and \$1,300.00 for September 2019. However, the banking information submitted into evidence by the Landlord shows that the Tenant paid \$1,300.00 for August 2019 and \$1,200.00 for September 2019. I accept this evidence and as it contradicts the testimony of the Landlord, I am not satisfied that the Landlord is owed the amounts as stated by the Landlord during the hearing. Instead, based on the evidence before me, I find that the Landlord is owed \$100.00 for September 2019 due to the underpayment of \$100.00 made on September 3, 2019.

As the Landlord was partially successful with the application, pursuant to Section 72 of the *Act* I award the recovery of the filing fee in the amount of \$100.00. The Landlord may retain \$200.00 from the security deposit as full satisfaction of the amount owed. This means that the security deposit held by the Landlord is now \$450.00 and the pet damage deposit remains at \$250.00. The parties are reminded to follow the process outlined under Section 38 of the *Act* for dealing with the remainder of the deposits.

Conclusion

Pursuant to Sections 67 and 72 of the *Act*, the Landlord is awarded compensation in the amount of \$100.00 for outstanding rent for September 2019, and \$100.00 for the recovery of the filing fee. The Landlord may retain the total amount of **\$200.00** from the security deposit as satisfaction of the amount owed.

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: November 21, 2019

Residential Tenancy Branch