



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE PENINSULA PROPERTY
MANAGEMENT and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act). The landlord applied for authority to keep all or part of the tenants' security deposit, a monetary order for loss of rent, and for recovery of the filing fee paid for this application.

The landlord's agent (landlord) attended the telephone conference call hearing; the tenants did not attend.

The landlord said they served each tenant with their application for dispute resolution and notice of hearing by registered mail to the address provided by one of the tenants. The landlord provided the tracking numbers for the registered mail, which is located on the style of cause page in this Decision.

Based upon the submissions of the landlord, I accept the tenants were served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing began in the tenants' absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, digital, and documentary evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to authority to keep all or part of the tenants' security deposit, further monetary compensation, and to recovery of the filing fee paid for this application?

Background and Evidence

The landlord submitted that this tenancy began August 8, 2015, that a subsequent tenancy agreement was signed by the parties showing a tenancy start date of September 1, 2018, for a fixed term through August 31, 2019. The monthly rent listed was \$2,000.00 and the landlord said the tenants paid a security deposit of \$975.00, which the landlord has retained.

The landlord's monetary claim is \$2,000.00. The landlord said the tenants vacated the rental unit on August 4, 2019 and failed to pay the monthly rent obligation of \$2,000.00 owed under the written tenancy agreement.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. In this case, the landlord has the burden of proof to substantiate their claim on a balance of probabilities.

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so. Under the terms of the written tenancy agreement provided by the landlord, I find that the tenants owed rent for the month of August 2019 and failed to pay the monthly rent owed to the landlord. I therefore find the landlord is entitled to a

monetary award of \$2,100.00, comprised of the unpaid rent of \$2,000.00 and recovery of the filing fee of \$100.00, as I have granted their application.

At the landlord's request, I direct them to retain the tenants' security deposit of \$975.00 in partial satisfaction of their monetary award of \$2,100.00 and I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$1,125.00.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord's application for monetary compensation is granted, as they have been granted a monetary award of \$2,100.00 and authorized to retain the tenants' security deposit of \$975.00.

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: December 12, 2019

Residential Tenancy Branch