



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, made on August 7, 2019 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent;
- an order to retain the Tenant's security and pet damage deposit; and
- an order granting recovery of the filing fee.

The Landlords testified that they served their Application and documentary evidence package to the Tenant by registered mail on August 19, 2019. The Tenant confirmed receipt. Pursuant to section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Are the Landlords entitled to a monetary order for unpaid rent, pursuant to Section 67 of the *Act*?
2. Are the Landlords entitled to retaining the Tenant's security and pet damage deposit, pursuant to Section 38 and 72 of the *Act*?
3. Are the Landlords entitled to an order granting the recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties agreed that the tenancy began on April 1, 2019. Rent in the amount of \$1,050.00 was due to the Landlords on the first day of each month. The Tenant paid a security deposit in the amount of \$525.00 and a pet damage deposit of \$315.00 for a total of \$840.00 which the Landlords continue to hold. The tenancy ended on August 11, 2019.

The Landlords testified that the Tenant failed to pay rent in the amount of \$1,050.00 for the month of August 2019. The Landlords stated that they subsequently served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent on August 3, 2019 (the "10 Day Notice") with an effective date of August 12, 2019, by attaching it to the Tenant's door. The Landlords stated that the Tenant did not pay the outstanding rent owed and moved out of the rental unit on August 11, 2019.

The Landlords stated that they were unable to re-rent the rental unit as they were unsure as to when the Tenant would vacate the rental unit and also, they were required to repair some damage in the rental unit which was caused by the Tenant.

The Tenant confirmed that she did not pay rent when due before vacating the rental unit. The Tenant stated that the Landlords had been agreeable to accepting a pro rated amount of rent for August 2019 for the 11 days that the Tenant occupied the rental unit. The Landlords stated that they did not have such an agreement.

The Landlords are seeking monetary compensation in the amount of \$1,050.00 as well as the return of the filling fee. The Landlords are also seeking to retain the Tenant's security and pet damage deposits towards their claim.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

The Landlord served the 10 Day Notice on August 3, 2019 by attaching it to the Tenant's door. The Tenant confirmed receipt. Pursuant to section 88 of the *Act*, I find the above document was sufficiently served for the purposes of the *Act*.

Accordingly, pursuant to section 46(4) of the *Act*, the Tenant had until August 8, 2019, to either pay rent in full or dispute the 10 Day Notice by filing an Application for dispute resolution. The parties agreed that the Tenant has not paid any amount of rent for August 2019 and has since vacated the rental unit on August 11, 2019. The Landlords stated that they were unable to re-rent the rental unit for the month of August 2019.

Section 26(1) of the *Act* confirms:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept that the parties agreed that the Tenant did not pay rent for August 2019 before moving out of the rental unit on August 11, 2019. I find the Landlords have established an entitlement to a monetary award for unpaid rent in the amount of \$1,050.00. Having been successful, I also find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application. I further find it appropriate in the circumstance to order that the Landlords retain the Tenant's security and pet damage deposits in partial satisfaction of their claim.

Pursuant to section 67 of the *Act*, I find the Landlords are entitled to a monetary order in the amount of \$310.00, which has been calculated as follows:

Claim	Amount
Unpaid August 2019 rent:	\$1,050.00
Filing fee:	\$100.00
<i>Less Security/Pet Damage Deposit</i>	<i>-(\$840.00)</i>
TOTAL:	\$310.00

Conclusion

The Tenant has breached the *Act* by not paying rent when due to the Landlords. The Landlords are granted a monetary order in the amount of \$310.00. The monetary order should be served to the Tenant as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 02, 2019

Residential Tenancy Branch