



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNRL-S, OPR

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order of Possession for non-payment of rent
- b. A monetary order in the sum of \$2600 for unpaid rent
- c. An Order to retain the security deposit.
- d. An order to recover the cost of the filing fee

The tenant(s) failed to appear at the scheduled start of the hearing which was 9:30 a.m. on December 12, 2019. The landlords were present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenant(s) failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The landlords were given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached. All of the evidence was carefully considered.

I find that the Notice to End Tenancy was served on the Tenant by posting on October 10, 2019. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on the Tenants by mailing, by registered mail to where the Tenants reside on October 25, 2019. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order of Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a fixed term written tenancy agreement that provided that the tenancy would start on October 1, 2018, end on October 31, 2019 and become month to month after that. The tenancy agreement provided that the rent was \$2600 per month payable on the first day of each month. The tenant paid a security deposit of \$1300 at the start of the tenancy. It also provided that the tenants would pay a pet damage deposit of \$1300 with payments of \$200 to \$300 per month. The landlords testified the tenants paid the pet damage deposit of \$1300.

The tenant(s) failed to pay the rent for the months of October 2019 and the sum of \$2600 remains owing.

The tenant(s) vacated the rent unit on November 1, 2019.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order of Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. However, the landlords stated that as the Tenants vacated the rental unit they did not require an Order of Possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of October 2019 and the sum of \$2600 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$2600 plus the sum of \$100 in respect of the filing fee for a total of \$2700.

Security Deposit:

I determined the security deposit and the pet damage deposit totals the sum of \$2600. I ordered the landlords may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$100.

Conclusion:

I ordered that the Landlord shall retain the security deposit and pet damage deposit of \$2600. In addition I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$100.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this 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 final and binding on both parties.

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