



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for a monetary order for unpaid rent of \$871.25; and to recover the \$100.00 cost of her filing fee.

The Tenant, the Landlord, and the Landlord's husband, K.Q., appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

Background and Evidence

The Parties agreed that the periodic tenancy began on July 13, 2016, with a monthly rent of \$850.00, which increased to \$871.25 by the end of the tenancy. The Landlord said the rent was due on the thirteenth day of each month. The Landlord provided documentary evidence that the Tenant paid the Landlord a security deposit of \$425.00, and no pet damage deposit.

The Landlord said in the hearing that the Tenant did not pay the rent that was due on September 13, 2019, and that she moved out of the rental unit without any notice or communication in this regard.

The Tenant acknowledged that she moved out on September 13, 2019, without having given the Landlord any notice of her planned departure. The Tenant said she had received a rent increase notice in the rental unit that appeared to have been slid under her door. However, the Tenant said that the Landlord would have to have opened her door to put this notice inside of the unit. The Tenant said this made her feel unsafe.

When I asked the Tenant if she had contacted the RTB to apply for dispute resolution, the Tenant said the Landlord had not given her a copy of the tenancy agreement. She said without this, she would not be able to prove anything in dispute resolution. The Tenant said it had become very awkward to communicate or be around the Landlords. She said it felt like it was time to leave and cut all ties, before things escalated on anyone's behalf. She said: "I did not pay the rent, because I was not there for that month."

K.Q. said that there was never an illegal entry. He said the papers were slid under the door. He said: "I'm not sure why she said the door had to be open. She left without any notice, and we had no idea that she was leaving or had any problems. A simple text message would have been enough." The Landlord said: "Had we not opened the front door, we would not have found the keys, because they were left outside our front door with nothing in writing whatsoever."

At the end of the hearing, the Tenant said: "I want to apologize for all of my actions and how everything did end. I realize that that wasn't the best way to handle this situation, leaving etc."

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement. This is the case, unless the tenant has a right under the Act to deduct all or a portion of the rent. There is no evidence before me that the Tenant had a right to deduct any amount of the rent, pursuant to an Order of the RTB under the Act.

According to section 45(1) of the Act, a tenant may end a periodic tenancy by giving the landlord notice that the effective date of the end of the tenancy is:

45 (1)(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In this case, the Tenant was required to give the Landlord one month's notice of the end of the tenancy. If the Tenant wanted to leave on September 13, 2019, she would have to have served the Landlord with the notice on August 12, 2019, pursuant to sections 88 and 90 of the Act.

Based on the evidence before me overall, I find that the Landlord has provided sufficient evidence to establish that the Tenant owes her one month's rent in the amount of \$871.25. I, therefore, grant the Landlord a monetary award from the Tenant in the amount of **\$871.25**, pursuant to section 67 of the Act.

Given the Landlord's success in this Application, I also award the Landlord with recovery of the \$100.00 Application filing fee, pursuant to section 72 of the Act for a total Monetary Order of \$971.25 from the Tenant.

I find that this claim meets the criteria under section 72(2)(b) of the Act to be offset against the Tenant's security deposit of \$425.00, in partial satisfaction of the Landlord's monetary award. I, therefore, authorize the Landlord to retain the Tenant's \$425.00 security deposit. I grant the Landlord a Monetary Order of **\$546.25** for the remainder of the monetary award owing to the Landlord by the Tenant.

Conclusion

The Landlord's claim for compensation for unpaid rent against the Tenant is successful, given that the Landlord provided sufficient evidence to support this claim.

The Landlord has established a monetary claim of \$871.25. I authorize the Landlord to retain the Tenant's full security deposit of \$425.00 in partial satisfaction of the claim. The Landlord has been granted a monetary order under section 67 for the balance due by the Tenants to the Landlord in the amount of **\$546.25**.

This Order must be served on the Tenant by the Landlord and may be filed in the Provincial Court (Small Claims) 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: February 03, 2020

Residential Tenancy Branch