



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenant's security and pet damage deposits (collectively "deposits"), pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 25 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the owner of the rental unit and the landlord for this tenancy.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package on November 19, 2019, by way of registered mail to the rental unit address where the tenant was still residing at the time. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on November 24, 2019, five days after its registered mailing.

Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to retain the tenant's deposits?

Is the landlord entitled to recover the filing fee paid for this application?

Background and Evidence

The landlord testified regarding the following facts. This tenancy began on October 1, 2017 and ended on December 3, 2019. Monthly rent in the amount of \$6,500.00 was payable on the first day of each month. A security deposit of \$3,250.00 and a pet damage deposit of \$1,000.00 were paid by the tenant and the landlord continues to retain both deposits. A written tenancy agreement was signed by both parties.

The landlord seeks a monetary order of \$21,400.00 for unpaid rent and the \$100.00 filing fee paid for this application. The landlord claimed that the tenant failed to pay rent of \$4,500.00 for April, \$1,100.00 for June, \$6,500.00 for September, \$2,800.00 for October, and \$6,500.00 for November 2019, totaling \$21,400.00. The landlord provided a rent ledger, indicating the amount of rent owed and paid each month from January to November 2019. The landlord confirmed that he was not seeking any rent for December 2019, since the tenant moved out on December 3, 2019.

Analysis

As per section 26 of the *Act*, the tenant is required to pay rent on the first day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

The landlord provided undisputed evidence that the tenant failed to pay rent of \$21,400.00 from April to November 2019. Therefore, I find that the landlord is entitled to \$21,400.00 in rental arrears from the tenant. I find that rent is due on the first day of each month, as per the parties' tenancy agreement, and the tenant failed to pay it.

The landlord continues to hold the tenant's deposits totalling \$4,250.00. In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's entire security and pet damage deposits totalling \$4,250.00 in partial satisfaction of the monetary award. No interest is payable on the deposits over the period of this tenancy.

As the landlord was successful in this application, I find that he is entitled to recover the \$100.00 application filing fee from the tenant.

Conclusion

I order the landlord to retain the tenant's entire security and pet damage deposits totalling \$4,250.00.

I issue a monetary order in the landlord's favour in the amount of \$17,250.00 against the tenant. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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: March 31, 2020

Residential Tenancy Branch