



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

On March 11, 2020, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent pursuant to Section 46 of the *Residential Tenancy Act* (the “*Act*”), seeking a Monetary Order for unpaid rent pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing. The Landlord also attended the hearing with A.B. attending as her agent. All in attendance provided a solemn affirmation.

A.B. advised that the Landlord served the Tenant a Notice of Hearing and evidence package by registered mail, but she was not sure of the date. The Tenant confirmed that he received this package on or around early-March 2020. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served with the Notice of Hearing and evidence package.

The Tenant confirmed that he did not submit any evidence to this file for consideration.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

During the hearing, A.B. advised that the Tenant gave up vacant possession of the rental unit on March 15, 2020 and the Tenant confirmed this information. As he has given up vacant possession of the rental unit, it was not necessary to consider the merits of an Order of Possession.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Tenant stated that the tenancy started on or around September or October 2016, but the Landlord was not sure of this date. Both parties agreed that rent was established at \$650.00 per month and was due on the first day of each month. The Tenant advised that a security deposit of \$650.00 may have been paid but he was not sure of this amount. The Landlord did not know if this security deposit was paid or not.

A.B. advised that the Tenant did not pay rent for December 2019, or January and February 2020, so the Landlord served the Notice on February 20, 2020. She stated that the Tenant paid \$650.00 on February 14, 2020 and an additional \$650.00 on February 28, 2020; however, this would go towards the rent arrears and now that it was April, the Tenant is still in arrears for February and March 2020 rent. As such, the Landlord is seeking compensation in the amount of **\$1,300.00** for the rent arrears for February and March 2020 rent. The effective end date on the Notice was noted as March 1, 2020.

The Tenant advised that he did “not know what to say” but he acknowledged that he did not pay December 2019 rent in December, nor did he pay January 2020 rent in January. As well, he confirmed that he did not pay February or March 2020 rent. However, he did make the two rental payments of \$650.00 of February 14 and 28, 2020.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 26 of the *Act* states that rent must be paid by the Tenant when due according to the tenancy agreement, whether or not the Landlord complies with the tenancy agreement or the *Act*, unless the Tenant has a right to deduct all or a portion of the rent.

With respect to the Landlord's claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

The undisputed evidence before me is that the rent was not paid in full when it was due and there is no evidence before me that the Tenant was entitled to withhold the rent. As well, the Tenant confirmed that he did not pay the rent. As such, I am satisfied that the Landlord is entitled to a monetary award for the rent arrears for February and March 2020, and I grant the Landlord a monetary award in the amount of **\$1,300.00**.

As the Landlord was successful in this Application, I find that she is entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a Monetary Order as follows:

Calculation of Monetary Award Payable by the Tenant to the Landlord

February 2020 rent arrears	\$650.00
March 2020 rent arrears	\$650.00
Filing fee	\$100.00
TOTAL MONETARY AWARD	\$1,400.00

Conclusion

The Landlord is provided with a Monetary Order in the amount of **\$1,400.00** in the above terms, and 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: April 6, 2020

Residential Tenancy Branch