



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

The landlord filed an Application for Dispute Resolution (the “Application”) on February 25, 2020 seeking an order to recover the money for unpaid rent and utilities, and to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on April 6, 2020. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference all hearing; the tenant did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document has been served at a verified address allowed under Section 89 of the *Act*, and I must accept that evidence.

In the hearing the landlord stated that they used Canada Post registered mail to send the Notice of Hearing to the tenants. This package included the evidence the landlord presents in this hearing. The landlord gave testimony that the address they provided on the registered mail package was that of the tenants’ forwarding address, that of one of the tenant’s parent. They provided a Canada Post registered mail tracking number for each tenant involved – this information appears in the landlord’s evidence.

I accept the landlord’s undisputed evidence that the package was sent to each tenant via registered mail. Based on the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord’s application in a manner complying with section 89(1)(c) of the *Act*, and the hearing proceeded in the tenant’s absence.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for Damage or Compensation pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The landlord applies for an order applying the security deposit to the monetary claim.

The landlord did not provide a copy of the tenancy agreement but spoke to its relevant terms in the hearing. The tenancy agreement between the two parties was signed on November 4, 2019. The monthly rental amount was \$1,500.00, payable on the first of each month. A security deposit was paid on the date of the signing, for \$725.00. The tenancy started on November 4, 2019, when the tenants moved in. They paid for the month of November, and then there were no rental payments for the months of December or January.

The landlord issued the One Month Notice to End Tenancy for Unpaid Rent (the “One Month Notice”) on January 16, 2020, with an effective end-of-tenancy date of February 29, 2020. This was served on the door of the unit to the tenants. The landlord met with the tenants and they “didn’t say anything” – they just moved out and gave the landlord the key on February 10, 2020. The landlord has had no communication with the tenants since the move out date. The landlord stated that he did observe one of the tenants with another person, coming in and out of the unit, but he did not see the tenants from the time of the service of the One Month Notice to the move out date of February 10.

The landlord itemized the unpaid rent amounts on the Application. The landlord applied for a monetary order for \$3,000.00 in unpaid rent. This is \$1,500.00 each for the months of December 2019 and January 2020. The landlord also wrote on the Application that the security deposit amount was \$725.00. The landlord rented the unit to other tenants within the month of February; therefore, they are not seeking compensation for this February rental amount.

The landlord also provided details on the clean-up costs they incurred after the tenants moved out. This was supplemented by photos of the unit – they show different rooms with garbage scattered throughout.

Analysis

I find the landlord's loss results from the tenant's breach of the tenancy agreement; therefore, compensation to the landlord is in order.

The tenants remained in the rental unit throughout the month of January, and had not paid rent for two months duration, prior to the landlord issuing the One Month Notice. I find the tenants did not communicate their move out date to the landlord prior to vacating the unit on February 10, 2020. This is a clear breach of the tenancy agreement; therefore, compensation to the landlord is in order.

The tenants did not attend the review; therefore, there is no evidence contrary to that provided by the landlord.

The landlord stated that he re-rented the unit to new tenants in the month of February, and for this reason did not claim for that rent amount. The issue of whether the tenants move out on February 10, 2020 entitled the landlord to additional compensation for that that months' rent is not within the scope of this hearing. Should the landlord wish to recoup the February lost rent amount, they are free to apply for compensation as a separate matter.

Based on the evidence and the landlord's oral testimony, I find the tenants breached the tenancy agreement and left two months of rent unpaid. I grant compensation for this amount for \$3,000.00

The landlord has properly made a claim against the security deposit and has the right to do so. With the landlord holding this amount of \$725.00, I order this amount deducted from the recovery of the rental amount of \$3,000.00. This is an application of section 72(2)(b) of the *Act*.

The landlord presented evidence on a monetary amount for the cost incurred after the tenants moved out, for clean-up costs and other maintenance to the unit. The landlord did not amend the Application to claim for recovery of these amounts and did not address this issue in the hearing. This matter was not before me in the hearing and I make no ruling on this issue. The landlord is free to re-apply for recovery of these amounts in a separate dispute process.

As the landlord is successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2,375.00 for unpaid rent and a recovery of the filing fee for this hearing application. The landlord is provided with this Order 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 *Act*.

Dated: April 15, 2020

Residential Tenancy Branch