



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

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

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony and present evidence. No issues were raised with respect to the receipt of the application and respective evidence submissions.

Issues

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

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

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

Background and Evidence

The tenancy began on September 1, 2018 for a one-year fixed term after which it became a month to month tenancy. The monthly rent at the relevant time was \$1378.62 plus \$51.25 for parking payable on the 1st day of each month. The tenants paid a security deposit of \$672.50 and a pet deposit of \$672.50 at the start of the tenancy which the landlord continues to hold.

The landlord is claiming unpaid rent and parking for December 2019. The landlord testified that on November 2, 2019 the tenant provided notice to end the tenancy effective November 30, 2019. The landlord testified the tenant was advised this notice was not being accepted as the earliest date the tenant could end the tenancy was December 31, 2019. The landlord testified the tenant vacated on November 27, 2019.

The tenant testified she spoke to the regional manager prior to November 1, 2019 in regard to moving out. The tenant submits that she was advised she had until midnight on November 1, 2019 to submit notice. The tenant further submits that they expressed various concerns to the manager about the rental unit such as noise complaints and issues with people parking in visitor parking stalls.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement.

Section 45(1) of the Act sets out that:

A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

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

(b) is before the day in the month...that rent is payable under the tenancy agreement.

A notice given under this section must be in writing and comply with the form and content requirements of section 52 of the Act.

The tenant provided a notice to the landlord on November 2, 2019 to end the tenancy effective November 30, 2019. The earliest possible effective date for the tenant's notice to end this periodic tenancy pursuant to section 45 of the Act was December 31, 2019. The tenant did not provide sufficient notice to end the tenancy and was advised of such by the landlord; therefore, the tenant was still responsible to pay December 2019 rent. I accept the landlord's claim for loss of rent in the amount of \$1378.62 plus \$51.25 for the month of December 2019.

The tenant's complaints about issues with the tenancy do not take away the tenants obligation to provide proper notice under the Act.

The landlord is awarded a total of \$1529.87 as claimed which included the \$100.00 filling fee.

The landlord continues to hold a security deposit and pet deposit in the total amount of \$1345.00. I allow the landlord to retain the security deposit and pet deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$184.87.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$184.87. 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: May 11, 2020

Residential Tenancy Branch