



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Denfor Investments Inc and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

The landlords’ agents attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlords’ agents testified the Application for Dispute Resolution and Notice of Hearing were served by posting to the door. The agent stated that they know the tenants received the documents because when they discovered the rental unit abandon on June 18th, they documents were left on the counter with the keys and a note was written on it, which reads “hope this makes up for it. LOL” and left a bottle wine behind.

While I accept leaving the above documents on the door is not permitted when making a claim for monetary compensation; however, I find that the documents have been sufficiently served for the purpose of this Act, pursuant to section 71(2)(c) of the Act as they were found in the rental unit with a note written on them.

The landlord’s agents appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Preliminary matters

I find it not necessary to consider the landlord's request for an order of possession as the tenants have vacated.

Issues to be Decided

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

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on July 1, 2019. Rent in the amount of \$1,800.00 was payable on the first of each month. The tenants paid a security deposit of \$900.00. The tenancy ended on June 18th, 2020, when it was discovered abandon.

The landlord's agent testified that the tenants did not pay any rent for April, a partial payment of \$300.00 was paid for May and no rent paid for June 2020. The landlord seeks to recover unpaid rent in the total amount of \$5,100.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

Rules about payment and non-payment of rent

26 (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

...

I accept the undisputed evidence of the landlord's agents that the tenants did not pay the full rent owed for April, May and June 2020, as stated above. I find the tenants have breached section 26 of the Act, and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$5,100.00**.

I find that the landlord has established a total monetary claim of **\$5,200.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$900.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$4,300.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: June 26, 2020

Residential Tenancy Branch