



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, FFL

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 sections 26 and 67; and
- authorization to recover the filing fee from the tenants, pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 p.m. 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. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that he served the tenants with his application for dispute resolution via registered mail on April 17, 2020. The Canada Post tracking slip was entered into evidence to prove the above mailing. The Canada Post website confirms the above testimony and shows that the landlord's application for dispute resolution was delivered to the tenants on April 20, 2020. I find that the tenants were served in accordance with section 89 of the *Act*.

Issues to be Decided

1. Is the landlord entitled to a Monetary Order for unpaid rent, pursuant to sections 26 and 67 of the *Act*?

2. Is the landlord entitled to recover the filing fee from the tenants, pursuant to section 72 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord's testimony, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided the following undisputed testimony. This tenancy began on March 8, 2020 and ended on June 1, 2020. Monthly rent in the amount of \$1,400.00 was payable on the first day of each month. A security deposit of \$700.00 was paid by the tenants to the landlord.

The landlord testified that the tenants made the following rent payments for April and May 2020:

- \$700.00 on April 18, 2020; and
- \$1,000.00 on May 20, 2020.

The landlord testified that the tenants requested he use their \$700.00 security deposit as ½ of April 2020's rent. The landlord testified that the tenants did not pay the outstanding rent in the amount of \$400.00 for May 2020's rent.

Analysis

Section 26(1) of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*. Pursuant to section 26(1) of the *Act*, I find that the tenants were obligated to pay the monthly rent in the amount of \$1,400.00 on the first day of each month. Based on the undisputed testimony of the landlord, I find that the tenants did not pay rent in accordance with section 26(1) of the *Act* and owe the landlord \$1,100.00 in unpaid rent for April and May 2020.

As the landlord was successful in his application, I find that he is entitled to recover the \$100.00 filing fee from the tenants, pursuant to section 72 of the *Act*.

Section 72(2) of the *Act* states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit due to the tenant. I find that the landlord is entitled to retain the tenants' security deposit in the amount of \$700.00.

Conclusion

I issue a Monetary Order to the landlord under the following terms:

Item	Amount
April rent	\$700.00
May rent	\$400.00
Filing Fee	\$100.00
Less security deposit	-\$700.00
TOTAL	\$500.00

The landlord is provided with this Order in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants 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: June 04, 2020

Residential Tenancy Branch