



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNRL-S, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for unpaid rent
- a monetary order for compensation for damage and loss under the Act, the regulation or tenancy agreement, pursuant to section 67 of the Act;
- authorization to retain the tenant's security and pet damage deposits under Section 38 of the Act; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord and the tenant attended the hearing. Both parties had a full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions.

As both parties were in attendance, I confirmed that there were no issues with service of the landlord's application for dispute resolution and evidence served.

Issues to be Decided

Is the landlord entitled to:

1. retain the security deposit and receive a monetary award for compensation for unpaid rent and damages caused by the tenant?
2. an authorization to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to the evidence and the testimony of the parties, not all details of the submission and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below. I explained rule 7.4 to the parties; it is their obligation to present the evidence to substantiate the application.

Both parties agreed the tenancy started on May 01, 2019 and the tenant continues to occupy the rental unit. Monthly rent of \$1,400.00 is due on the first day of the month. At the outset of the tenancy a security deposit of \$700.00 and a pet damage deposit of \$200.00 (the deposits) were collected. The landlord still holds the deposits. A tenancy agreement was submitted into evidence.

Both parties agreed the tenant did not pay rent on March 01, April 01, May 01 and June 01, 2020 and that today the tenant paid \$700.00.

The landlord submitted into evidence a monetary order worksheet indicating total arrears of \$5,600.00 for the rent for the months of March, April, May and June 2020. The landlord affirmed the monetary order worksheet was incorrectly completed and where it says 15th day of the month it should say 1st day of the month.

The landlord also affirmed he would only like to retain the tenant's deposits when the tenant vacates the rental unit. The landlord also affirmed he has applied for unpaid rent and is not seeking a monetary award for damages.

The tenant affirmed she is facing financial hardship.

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. Based on the undisputed testimony and the tenancy agreement, I find that the tenant is obligated to pay the monthly rent in the amount of \$1,400.00 on the first day of each month and did not pay rent for March, April, May and June 2020. On June 22, 2020 the tenant paid \$700.00.

Thus, I find the tenant owes rent to the landlord in the amount \$4,900.00 for the balance of March 2020 (considering today's payment of \$700.00), and the months of April, May and June 2020.

The application for a monetary order for compensation for damage is dismissed, as the landlord affirmed he is only seeking for compensation for unpaid rent.

As explained in section D.2 of Policy Guideline #17, the Residential Tenancy Act provides that where an arbitrator orders a party to pay any monetary amount or to bear all or any part of the cost of the application fee, the monetary amount or cost awarded to a landlord may be deducted from the security deposit held by the landlord and the monetary amount or cost awarded to a tenant may be deducted from any rent due to the landlord. Although the landlord affirmed he does not wish to have the deposits retained towards the unpaid rent, based on Policy Guideline 17, I order the landlord to retain the tenant's deposits of \$900.00 in partial satisfaction of the unpaid rent.

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

In summary:

Unpaid rent balance of March 2020	\$700.00
Unpaid rent April 2020	\$1,400.00
Unpaid rent May 2020	\$1,400.00
Unpaid rent June 2020	\$1,400.00
Filing fee	\$100.00
Minus deposits	\$900.00 (subtract)
Total monetary award	\$4,100.00

Conclusion

Pursuant to sections 38, 67 and 72 of the Act, I authorize the landlord to retain the \$900.00 security and pet damage deposits and grant the landlord a monetary order in the amount of \$4,100.00.

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 *Residential Tenancy Act*.

Dated: June 23, 2020

Residential Tenancy Branch