



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AZZURRI PROPERTIES and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*"), made on June 18, 2020. The Landlord applied for a monetary order for unpaid rent, permission to retain the security deposit and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlord Agent (the "Landlord"), the Tenant attended the hearing and were each affirmed to be truthful in their testimony. Both the Tenant and the Landlord were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent?
- Is the Landlord entitled to retain the security deposit?
- Is the Landlord entitled to the return for their filing fee for this application?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement shows that the tenancy began on September 10, 2018, as a three-month fixed term tenancy, that rolled into a month to month tenancy at the end of the initial fixed term. The parties agreed that rent in the amount of \$650.00 was to be paid by the first day of each month and that the Landlord had been given a \$325.00 security deposit at the outset of this tenancy.

The parties agreed that this tenancy ended on July 15, 2020, when a writ of possession was enforced for this tenancy.

The Landlords testified that the Tenant is outstanding in their rent payments in an amount of \$3,625.00; consisting of \$375.00 for February, \$650.00 for March 2020, \$650.00 for April 2020, \$650.00 for May 2020, \$650.00 for June 2020 and \$650.00 for July 2020. has not paid the rent for May and June 2020, in the amount of \$1,950.00. The Landlord is requesting a monetary order for the outstanding rent.

The Tenant testified that they had paid the rent for February, March and April 2020, but agreed, that they had not paid the rent for May, June and July 2020.

Analysis

Based on the evidence before me, the testimony of these parties, and on a balance of probabilities that:

I accept the testimony of the Landlord, that the rent between February 2020 to July 2020 had not been paid for this tenancy. Section 26(1) of the *Act* states that a tenant must pay the rent when it is due under the tenancy agreement.

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.

(2) A landlord must provide a tenant with a receipt for rent paid in cash.

(3) Whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not

(a) seize any personal property of the tenant, or

(b) prevent or interfere with the tenant's access to the tenant's personal property.

(4) Subsection (3) (a) does not apply if

(a) the landlord has a court order authorizing the action, or

(b) the tenant has abandoned the rental unit and the landlord complies with the regulations.

I find that the Tenant breached section 26 of the Act when they did not pay the rent as required under the tenancy agreement. Therefore, I find that the Landlord has established an entitlement to a monetary award in the amount of \$3,300.000, comprised of \$325.00 in rent for February 2020, \$650.00 for March 2020, \$650.00 for April 2020, \$650.00 for May 2020, \$650.00 for June 2020 and \$650.00 for July 2020, less the \$325.00 the Landlord is holding as a security deposit for this tenancy.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has been successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this hearing.

I grant the Landlords a monetary order of \$3,400.00, consisting of \$3,300.00 in rent and the recovery of the \$100.00 filing fee for this hearing.

Conclusion

I find for the Landlord under sections 26, 65 and 72 of the Act. I grant the Landlord a **Monetary Order** in the amount of **\$3,400.00**. 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: July 16, 2020

Residential Tenancy Branch