



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking:

- Unpaid rent and fees; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord (the “Agent”), who provided affirmed testimony. Neither the Tenant nor an agent acting on the Tenant’s behalf attended the hearing and no documentary evidence was submitted to the Branch by the Tenant. The Agent was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the Respondent must be served with a copy of the Application and Notice of Hearing. As neither the Tenant nor an agent for the Tenant attended the hearing, I confirmed service of these documents as explained below.

The Agent testified that the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, the Notice of Hearing, and the Landlord’s documentary evidence, was sent to the Tenant at the rental unit by registered mail on June 25, 2020, and provided me with the registered mail tracking number. The Agent stated that they inspected the rental unit yesterday and the Tenant appears to still reside there as all of their possessions remain in the rental unit. The Agent also stated that they saw the Notice of Dispute Resolution Proceeding Package on the Tenant’s counter.

The Canada Post tracking website shows that the registered mail was sent as described above and delivered June 26, 2020. As a result, I find that the Tenant was served in accordance with the *Act* and the Rules of Procedure on June 26, 2020. I therefore accepted the Landlord’s documentary evidence for consideration and the hearing proceeded as scheduled pursuant to rule 7.3 of the Rules of Procedure, despite the

Tenant's absence. Although the hearing continued until 9:48 A.M., neither the Tenant nor an agent acting on their behalf ever called into the teleconference.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant facts, evidence, and issues in this decision.

At the request of the Agent, copies of the decision and any orders issued in favor of the Landlord will be emailed to them at the email address provided in the hearing.

Preliminary Matters

At the outset of the hearing the Agent stated that the Tenant still resides in the rental unit and that since the Application was filed, the Tenant has also failed to pay rent and parking fees owed for July 2020, and has been charged \$50.00 in subsequent late and NSF fees.

Rule 4.2 of the Rules of Procedure states that in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application was made, the Application may be amended at the hearing. I therefore amend the Application to include outstanding rent, parking fees, late fees and NSF fees charged for July 2020.

Issue(s) to be Decided

Is the Landlord entitled to compensation for outstanding rent and fees owed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy agreement in the documentary evidence before me states that the one year fixed term tenancy began on December 1, 2013, that rent is due on the first day of each month, and that rent in the amount of \$870.00 was due at the start of the tenancy, plus \$15.00 per month in parking fees. The tenancy agreement also states that a security deposit in the amount of \$435.00 was paid on November 29, 2013, which the Agent confirmed is still held in full by the Landlord. In the hearing the Agent also stated that the tenancy continued on a month to month basis after the end of the fixed term and that current rent is \$999.00 per month, plus \$15.00 for parking.

The Agent stated that no rent or parking fees have been paid for February, March, April, May, June or July of 2020, and that the Tenant has incurred monthly late and NSF fees charged at \$25.00 each, for each of these months in accordance with the tenancy agreement, as their automatic deposits have bounced. The Agent stated that the Tenant therefore currently owes \$5,245.00 in outstanding rent, parking fees, late fees and NSF fees.

Neither the Tenant nor an Agent acting on their behalf attended the hearing to provide any evidence or testimony for my consideration.

Analysis

I accept the undisputed documentary evidence and testimony before me for consideration from the Agent and find that rent and parking fees in the amount of \$1,014.00 are due on the first day of each month, that the Landlord is entitled under the tenancy agreement to charge \$25.00 per month in late fees and \$25.00 per month in NSF fees, if applicable, and that the Tenant currently owes \$5,245.00 in outstanding rent and fees.

Based on the above, I therefore grant the Landlord's Application. As the Landlord was successful in their Application, I also grant them recovery of the \$100.00 filing fee pursuant to section 72 (1) of the *Act*. In the hearing the Agent requested authority to withhold the Tenant's security deposit towards the above noted amounts owed and pursuant to section 72 (2)(b), I therefore grant this request.

Based on the above, I find that the Landlord is entitled to a Monetary Order in the Amount of \$4,910.00; \$5,245.00 owed in outstanding rent and fees, plus \$100.00 for recovery of the filing fee, less the \$435.00 security deposit withheld, and I order the Tenant to pay this amount to the Landlord.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of **\$4,910.00**. 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 17, 2020

Residential Tenancy Branch