



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 the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlords attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlords stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on March 15, 2020. The landlords stated after sending the package to the tenant, the tenant contacted the landlord and confirmed receipt of the package. I also note that the landlords provided in their documentary evidence package a copy of the Canada Post Customer Tracking Label. The number noted on the cover of this decision.

I accept the undisputed affirmed evidence of the landlords and find that the tenant was properly served as per sections 88 and 89 of the Act. Although the tenant did not attend, the tenant is deemed served as per section 90.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent and recovery of the filing fee?

Are the landlords entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on February 1, 2018 on a fixed term tenancy ending on February 1, 2019 and then thereafter on a month-to-month basis or another fixed length of time as per the submitted copy of the signed tenancy agreement dated January 19, 2018. The monthly rent was \$1,600.00 payable on the 1st day of each month. A security deposit of \$800.00 was paid.

The landlords seek a monetary claim of \$5,100.00 which consists of:

\$5,000.00	Unpaid Rental Arrears
\$100.00	Filing Fee

The landlords claim that the "tenant owes \$5000 in back rent and unable to pay. The tenant was irregular to pay the rent every month. Every month she make excuses and not pay full rent finally given hand note that every month she will pay 500 but failed to pay."

In support of this claim the landlords have submitted a copy of a typed letter signed by the tenant and dated February 9, 2020 which states in part,

I am giving notice to end tenancy on end of Feb 2020 due to unable to pay back rent which is total due up to February 9, 2020 \$6000.00 (six thousand dollars).

Regarding dues I will arrange from my employer to pay 500.00 (five hundred dollars) every month directly to landlord until finish the full dues.

[reproduced as written]

I also notation on the handwritten note under the tenant's signature which states,

<i>Total Balance</i>	<i>\$6,000</i>	
	<i>-1000</i>	<i>payment feb 09, 2020</i>
	<i>\$5,000</i>	<i>Balance</i>

The landlords stated that that since receiving this payment and signed letter on February 9, 2020, no further payments have been made by the tenant. The landlords hold the \$800.00 security deposit as of the date of this hearing. The landlords stated that the tenancy ended on February 27, 2020.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I accept the undisputed affirmed evidence of the landlords and find that the tenant was in rental arrears of \$5,000.00 as shown by the landlords' submitted copy of the letter dated February 9, 2020 and signed by the tenant. On this basis, the landlord has provided sufficient evidence of rental arrears.

The landlords are also entitled to recovery of the \$100.00 filing fee. I authorize the landlords to retain the \$800.00 security deposit in partial satisfaction of this claim.

Conclusion

The landlords are granted a monetary order for \$4,300.00.

This order must be served upon the tenant. Should the tenant fail to comply with this order, the 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