



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S

Introduction

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

- Recovery of unpaid rent; and
- Authorization to withhold the security deposit for rent owed.

The hearing was convened by telephone conference call and was attended by the Landlord Y.V., who provided affirmed testimony. No one appeared on behalf of the Tenants. The Landlord 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 respondents must be served with a copy of the Application and Notice of Hearing. As no one attended the hearing on behalf of the Tenants, I confirmed service of these documents as explained below.

The Landlord testified that the Notice of Dispute Resolution Proceeding Package, including the Application, the Notice of Hearing, and the Landlords’ documentary evidence, was sent to the Tenants by registered mail on March 29, 2020, at the forwarding address provided by the Tenants. The Landlord stated that although only one registered mail envelope was sent, it contained a separate Notice of Dispute Resolution Proceeding Package for each Tenant. The Landlord provided me with the registered mail tracking number shown on the style of cause and stated that they spoke with the Tenants after the mail was sent, and that the Tenants confirmed receipt.

The Canada Post website confirms that the registered mail was sent as described above and delivered to a mailbox on March 31, 2020. As a result, I find that the Tenants were deemed served in accordance with section 90 (d) the *Act* and the Rules of Procedure on April 3, 2020, three days after it was delivered to the mailbox. As a result, I accepted the documentary evidence before me from the Landlords for

consideration, and the hearing proceeded as scheduled, despite the absence of the Tenants, pursuant to rule 7.3 of the Rules of Procedure.

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 Landlord, copies of the decision and any orders issued in their favor will be emailed to them and the other Applicant at the email addresses provided in the Application.

Issue(s) to be Decided

Are the Landlords entitled to recovery of unpaid rent?

Are the Landlords entitled to authorization to withhold the security deposit for rent owed?

Background and Evidence

The tenancy agreement in the documentary evidence before me, signed by the parties on July 21, 2018, states that the one year fixed term tenancy began on August 1, 2018, and ended on July 31, 2019, after which time the tenancy continued on a month to month basis. The tenancy agreement states that rent in the amount of \$2,400.00 is due on the first day of each month and that a security deposit in the amount of \$1,200.00 was paid.

During the hearing the Landlord confirmed that these are the correct terms for the tenancy agreement and that they still hold the security deposit. The Landlord stated that the tenancy ended on March 1, 2020, as a result of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") and that condition inspections and reports were completed with the Tenants at the start and end of the tenancy in compliance with the *Act* and regulations.

The Landlord stated that the Tenants provided their forwarding address in writing on the move-out condition inspection report on March 1, 2020, and that at the Tenants currently owe \$4,900.00 in outstanding rent. The Landlord submitted a copy of the tenancy agreement, a rent ledger, a Monetary Order Worksheet and copies of

e-transfer receipts in support of this testimony. The Landlord stated that although they attempted to settle this matter with the Tenants outside of the Residential Tenancy Branch, they were ultimately unsuccessful and as a result, they are seeking authorization to withhold the \$1,200.00 security deposit and a Monetary Order in the amount of \$3,700.00.

No one appeared on behalf of the Tenants to provide any evidence or testimony for my consideration.

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 the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent.

As there is no evidence before me to the contrary, I accept the documentary evidence and affirmed testimony of the Landlord that rent in the amount of \$2,400.00 was due on the first day of each month and that the Tenants owe \$4,900.00 in outstanding rent. As there is no evidence before me that the Tenants were entitled to withhold this rent under the *Act*, I therefore find that this amount is owed to the Landlords and award them recovery of this amount.

As the Landlords filed their Application seeking to retain the security deposit for unpaid rent on March 16, 2020, which is 15 days after the date the tenancy ended and the Tenants' forwarding address was provided to the Landlords in writing, I therefore find that the Landlords complied with section 38 (1) of the *Act* with regards to retention of the security deposit and the filing of the Application.

As the Landlords were successful in their Application and pursuant to section 72 (2) of the *Act*, I grant the Landlords authorization to withhold the \$1,200.00 security deposit in partial repayment of the above noted amounts owed. Based on the above, and pursuant to section 67 of the *Act*, I therefore grant the Landlords a Monetary Order in the amount of \$3,700.00 (\$4,900.00 in unpaid rent, less the \$1,200.00 security deposit retained) and order the Tenants to pay this amount to the Landlords.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlords a Monetary Order in the amount of **\$3,700.00**. The Landlords are 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: July 24, 2020

Residential Tenancy Branch