



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rental Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

The landlords filed an application for Dispute Resolution (the “Application”) on April 21, 2020 seeking an order to recover monetary loss for unpaid rent, damages, and compensation for other money owed by the tenant. Additionally, they applied for the cost of the hearing filing fee.

The matter proceeded by way of a hearing on August 14, 2020 pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”). In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlords attended the hearing; the tenant did not attend. The tenant did not submit or serve documents as evidence for this hearing.

In the hearing, the landlords confirmed they delivered notice of this hearing and their prepared evidence to the tenant on April 29, 2020. They stated the tracking number entry for Canada Post showed the registered mail was delivered. They also sent the information and evidence for this matter via email.

In consideration of the evidence presented by the landlords, and with consideration to section 89 of the *Act*, I find the tenant was sufficiently served with notice of this hearing, as well as the landlords’ evidence.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to retain the security deposit pursuant to section 38 of the *Act*?

Are the landlords entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

Background and Evidence

The landlords submitted a copy of the tenancy agreement for this hearing and spoke to the terms therein. Both the landlord and tenant signed this agreement on March 15, 2017. The tenancy started on April 1, 2017 for a fixed term ending on March 31, 2018. The agreement reverted to a month-to-month plan after that. The monthly rent at the start of the tenancy was \$1,050.00 per month. The tenant paid a security deposit of \$525.00 each on March 15, 2017.

An attached schedule to the tenancy agreement provides for extra service charges for late payments and return cheque ("NSF") fees. This is \$25.00 each.

The landlord also showed two rental increase notices in 2018 and 2019. The 2019 rent increase brings the amount of rent payable each month to \$1,144.00. It is this amount that the landlord presents as their calculation of monthly rent for the total amount owing.

The landlord ended the tenancy in April 2020, and the tenant moved out on July 30, 2020. As of the date of the hearing, the landlord claimed \$2,388.00 for the cost of two months of rent, as well as two months of NSF fees at \$50.00 each. The landlord provided a 'Monetary Order Worksheet' dated April 21, 2020.

In the hearing, the landlord stated they are amending the monetary amount claimed for rent for the month of May, June, July, as well as August 2020. The landlord claims the month following the tenant's move out due to a "huge renovation" which they hope to have completed by the middle of September. This entails a large clean-up of the unit and follow-through on repair.

The amended claim includes the amount of rent for the following months of May through to August, as well as March and April, all at \$1,194.00 each. This total is \$5,970.00, inclusive of the \$50.00 NSF fees for each of these months.

The tenant did not attend the hearing and did not provide documentary evidence prior to the hearing date.

Analysis

I allow the landlord's amendment to the monetary amount claimed. I find this is reasonable in the circumstances where subsequent month's rent was not paid before the tenant moved out. I also accept the landlord's testimony that the unit requires additional work to restore it to a marketable rental unit. I accept the landlord's amendment to their claimed amount and thus proceed on this analysis.

From the testimony of the landlord I am satisfied that a tenancy agreement was in place. They provided the specific terms of the rental amount and accounted for previous rental amount increases. The tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

I accept the evidence before me that the tenant failed to pay the rent for March 2020, extending into April 2020 as per the landlord's original claim. This extends into July 2020 with the tenant still present in the unit prior to the move out date of July 30, 2020. As well, I find the landlord may recover the cost where damages required a reworking of the unit, leaving them unable to rent it in the following month. This is in line with the principles of awards that are "sufficient to put the landlord in the same position as if the tenant had not breached the agreement."

I find the landlord are entitled to an award for the amount claimed: \$5,970.00.

The *Act* section 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by the landlord. The landlord has established a claim of \$5,970.00. After setting off the security deposit amount of \$525.00, there is a balance of \$5,445.00. I am authorizing the landlord to keep the security deposit amount and award the balance of \$5,445.00 as compensation for rent and utility amounts owing.

As the landlord is successful, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the landlords a Monetary Order in the amount of \$5,545.00. The landlords are 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 *Act*.

Dated: August 18, 2020

Residential Tenancy Branch