



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT
INC and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing dealt with the Landlord's adjourned Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*"), made on March 6, 2020. The Landlord applied for a monetary order for unpaid rent, and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlord's Agent attended both July 14, 2020, and today's hearing and was affirmed to be truthful in their testimony. As the Tenants did not either attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

As these proceedings are a continuance of the July 14, 2020 hearing, and the Notice of Dispute Resolution Hearing documents were served on the Tenants by the Residential Tenancy Branch, by both email and Canada Post, on July 15, 2020, I find that the Tenants had been duly served in accordance with the *Act*.

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 the return for their filing fee for this application?

Background and Evidence

The Landlord testified that the tenancy began on May 1, 2018, as a one-year fixed term tenancy that rolled into a month to month tenancy at the end of the initial fixed term. The Landlord testified that rent in the amount of \$1,686.00, consisting of \$1561.00 for the suite, \$25.00 for parking and \$100.00 in storage, was to be paid by the first day of each month. The Landlord testified that the Tenants had paid the full \$780.00 security deposit at the outset of this tenancy, but that they had only paid \$125.00 of the required pet damage deposit for this tenancy.

The Landlords testified this tenancy ended on September 30, 2019 in accordance with the Act, but that the Tenants had left with outstanding rent due in the amount of \$3,683.17; \$311.17, for July 2020, \$1,686.00 for August 2020 and \$1,686.00 for September 2020. The Landlord is requesting a monetary order for the outstanding rent.

Analysis

Based on the evidence before me, the undisputed testimony of the Landlord, and on a balance of probabilities that:

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.

In this case, I undisputed testimony of the Landlord that the rent for this tenancy has not been paid for June, August and September 2020. I find that the Tenants 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 \$3,686.17, comprised of \$311.17 in rent for June 2020, \$1,686.00 in rent for August 2020 rent \$1,686.00 in rent for September 2020. I grant permission to the Landlord to retain the security and pet damage deposits they are holding for this tenancy, in partial satisfaction of this award.

Additionally, 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 \$2,878.170, consisting of \$3,686.17 in rent and the recovery of the \$100.00 filing fee for this hearing, less the \$780.00 security deposit and \$125.00 pet damage deposit the Landlord is holding for this tenancy.

Conclusion

I find for the Landlord under sections 26, 67 and 72 of the Act. I grant the Landlord a **Monetary Order** in the amount of **\$2,878.17**. The Landlord is 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: August 21, 2020

Residential Tenancy Branch