



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS
LTD. and [tenant name suppressed to protect privacy]

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 its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on April 23, 2020.

I accept the undisputed affirmed testimony of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act. Despite not attending, the tenant is deemed served as per section 90 of the Act, 5 days later on April 28, 2020.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?
Is the landlord 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 until January 31, 2019 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated January 9, 2018. The monthly rent began at \$2,100.00 payable on the 1st day of each month. Subject to a Notice of Rent Increase, the rent was raised to \$2,152.00 later. A \$1,050.00 security deposit was paid.

The landlord seeks a clarified monetary claim of \$1,200.00 which consists of:

\$1,050.00	Unpaid Rent, April 2020
\$25.00	NSF Fee
\$25.00	Late Rent Fee
\$100.00	Filing Fee

The landlord clarified that the monetary claim was in error as it lists a NSF Fee of \$50.00 when this should have been a \$25.00 NSF Fee and a \$25.00 Late Rent Fee.

The landlord claims that the tenant failed to pay all of the rent of \$2,152.00 that was due on April 1, 2020. The landlord stated that a partial rent payment of \$52.00 was paid on April 2, 2020 followed by another partial payment of \$1,050.00 that was paid on April 3, 2020 leaving an outstanding balance of \$1,050.00. The landlord stated that the tenant vacated the rental unit on April 30, 2020.

The landlord also stated that the tenant having failed to pay all of the rent when due on the 1st is subject to a \$25.00 late rent fee.

The landlord also stated that an NSF Fee of \$25.00 was incurred when the tenant's authorized payment plan was returned as NSF by the Bank for \$25.00.

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.

I accept the undisputed affirmed evidence of the landlord that the tenant vacated the rental unit on April 30, 2020 and failed to pay the entire balance of rent for April 2020 of \$2,152.00.

The landlord provided undisputed affirmed evidence that the tenant's pre-authorized payment was returned by the bank as NSF and incurred a \$25.00 NSF fee and a \$25.00 late rent fee as agreed to in the signed tenancy agreement. The landlord also provided undisputed affirmed testimony that two partial rent payments of \$52.00 on April 2, 2020 and \$1,050.00 on April 3, 2020 left outstanding arrears of \$1,050.00.

I find based upon the above undisputed affirmed evidence that the landlord has established a claim for \$1,100.00 as filed.

The landlord is also entitled to recovery of the \$100.00 filing fee.

In offsetting this claim, I authorize the landlord to retain the \$1,050.00 security deposit in partial satisfaction of this claim.

Conclusion

The landlord is granted a monetary order for \$150.00.

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: August 28, 2020

Residential Tenancy Branch