



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNRL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant acknowledged receipt of evidence submitted by the landlord. The tenant did not submit any documentation for this hearing. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Preliminary Issue

At the outset of the hearing the landlord advised that he had not submitted a receipt for the cleaning charge of \$140.00 and was no longer pursuing that portion of his application, accordingly; I dismiss the cleaning claim without leave to reapply.

Background and Evidence

The landlord gave the following testimony. The tenancy began on October 8, 2018 and the tenants moved out on April 5, 2020. The tenants rent was \$1635.00 per month due on the first of each month. The tenants paid a security deposit of \$800.00 which the

landlord still holds. The landlord testified that on March 17, 2020 the tenants gave notice that they would be moving out on March 31, 2020. The landlord testified that the tenants did not move out on that day but instead gave another notice that they would be moving out on April 5, 2020. The landlord sent an email to the tenants advising that they would be able to stay as long as they paid the rent for the five days that they were staying and if they would sign a Mutual Agreement to End Tenancy immediately so that the landlord was certain that they would be moving out. The landlord advised that they did not pay the rent or sign the Mutual Agreement to End Tenancy. The landlord testified that he tried numerous times to work with the tenants and to be flexible, but they were unreliable and kept changing their minds. The landlord requests the loss of \$1635.00 rent for the month of April due to the short notice and the recovery of the \$100.00 filing fee for a total claim of \$1735.00.

The tenant gave the following testimony. The tenant testified that because of COVID-19 they were no longer comfortable with community laundry and were seeking a unit with in suite laundry. The tenant testified that he had an agreement with the managers that he could stay the five days and just pay a pro-rated amount. The tenant testified that the landlord could hold back that amount and return the balance of the deposit to him. The tenant feels that there was a communication break down that has caused this situation to arise. The tenant feels that the landlord shouldn't be awarded anything beyond the rent for five days.

Analysis

The relationship between the parties is an acrimonious one. It was evident throughout the hearing that the relationship had broken down. The tenant was especially upset with the landlord filing this application and the process in which to have his deposit returned. The tenant continually referred to agreements made with the managers, however; he did not provide any documentation of those agreements or any documentation whatsoever for this hearing.

Section 45 of the Act addresses the issue before me as follows:

Tenant's notice

- 45** (1)A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that
- (a)is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The tenant acknowledged and confirmed that he gave short notice to the landlord, did not pay the rent owing for the five days in April and did not sign the Mutual Agreement to End Tenancy. Despite the landlord offering several opportunities to work with the tenant, the tenant failed to or declined to meet his obligations. In the tenant's own testimony, he acknowledged that he did not give proper notice to the landlord and that he did not vacate on the day he originally promised to do so, based on that testimony and section 45 of the Act; I find that the landlord is entitled to the loss of rent for the month of April 2020 in the amount of \$1635.00. The landlord is also entitled to the recovery of the \$100.00 filing fee for a total award of \$1735.00.

Conclusion

The landlord has established a claim for \$1735.00. I order that the landlord retain the \$800.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$935.00. This order may be filed in the Small Claims 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 14, 2020

Residential Tenancy Branch