



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

The landlord filed an Application for Dispute Resolution on May 14, 2020 seeking an order to recover monetary loss of unpaid rent. Additionally, they applied for the cost of the hearing filing fee.

The matter proceeded by way of a hearing on September 17, 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 landlord attended the hearing. The tenant did not attend and did not provide documentary evidence prior to this hearing.

In the hearing, the landlord confirmed they delivered notice of this hearing and their prepared evidence to the tenant on May 18, 2020. They stated the tracking number entry for Canada Post showed the registered mail was delivered to the tenant. Their package included their prepared documentary evidence in this matter.

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

Issue(s) to be Decided

Is the landlord 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*?

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

Background and Evidence

The landlord submitted a copy of the tenancy agreement for this hearing and spoke to the terms. The tenant and landlord signed the agreement on July 29, 2019. The tenancy started on October 1, 2019 for a fixed term ending on July 31, 2020. The monthly rent was \$1,850.00 per month. The tenant paid a security deposit of \$925.00.

In the hearing the landlord stated the tenant moved out “at the end of the month of May.” The landlord did not receive notice of the tenant moving out. This means the unit was “abandoned” and the landlord did not receive rent for the month of May. They tried could not establish contact with the tenant. They entered the unit on May 28, 2020 after giving notice and found no personal items of the tenant present.

The landlord stated they were able to re-rent the unit for the following month, for \$1,700.00 with a new tenancy.

The landlord claims the full amount of May 2020 rent and the remainder of April rent outstanding for \$925.00. To show this, the provided a cumulative ‘Tenant Statement’ showing all monthly rent since the beginning of the tenancy – it shows regular payments on time, up until April and May 2020.

A ‘Monetary Order Worksheet’ dated May 14, 2020 shows the added amount for the total claim of \$2,775.00. They request to apply the full amount of the security deposit -- \$925.00 – against the outstanding balance. Additionally, they seek the \$100.00 Application filing fee.

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

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 the amount of the

deposits paid. The tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

The *Act* section 45 sets out how a tenant may end a tenancy:

45(2)

A tenant may end a fixed term 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,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) 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.

In this case, the evidence of the landlord is that the tenant breached the tenancy agreement by abandoning the rental unit at some time in May 2020. The landlord discovered this upon entry to the unit on May 28, 2020. Under the *Act*, the tenant was obligated to give notice to end the tenancy for an effective date in line with section 45(2).

I accept the evidence before me that the tenant failed to pay the rent for May 2020. The evidence shows there was a remaining balance from April 2020. I find the landlord is entitled to the remainder of April and the full amount of May rent, for the total \$ 2,775.

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 \$2,775.00. After setting off the security deposit amount of \$925.00, there is a balance of \$1,850.00. I am authorizing the landlord to keep the security deposit amount and award this balance as compensation for rent 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 landlord a Monetary Order in the amount of \$1,950.00. The landlord is 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: September 21, 2020

Residential Tenancy Branch