



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: FFL MNRL-S

Introduction

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

- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:44 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord, landlord's partner and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was sent a copy of the dispute resolution hearing package ("Application") and evidence by way of registered mail on May 23, 2020. The landlord served the tenant an additional package of evidence on May 26, 2020. The landlord provided the tracking information in the hearing. In accordance with sections 88, 89, and 90 of the *Act*, I find that the tenant deemed served with the Application and evidence on May 28, 2020 and additional evidence package on June 1, 2020, 5 days after mailing. The tenant did not submit any written evidence for this hearing.

At the outset of the hearing, the landlord requested an amendment to the tenant's name to include the tenant's surname as reflected in the written tenancy agreement. As the landlord provided a copy of the tenancy agreement signed by both parties, I allow the amendment to reflect the tenant's full name on the landlord's application.

Although the landlord applied for a Monetary Order of \$6,450.00 in their initial claim, the tenant has failed to pay rent for the months of June through to September 2020. Since the filing of the original application, another \$5,650.00 in rent has become owing that was not included in the original application. I have accepted the landlord's request to amend their original application from \$6,450.00 to \$12,100.00 (plus \$100.00 filing fee) to reflect the additional unpaid rent that became owing by the time this hearing was convened.

Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

This tenancy began on January 1, 2020, with currently monthly rent set at \$2,150.00, payable on the first of every month. The tenant paid a security deposit in the amount of \$1,100.00, which the landlord still holds. The landlord testified that the tenant moved out on September 12, 2020.

The landlord testified that since this application was filed, the tenant has not paid any rent for the months of April 2020 through to September 2020, with the exception of a \$400.00 payment on June 10, 2020, and another \$400.00 payment on July 27, 2020.

The landlord is seeking an Order of Possession as well as a Monetary Order for unpaid rent and recovery of the filing fee.

Analysis

Section 26 of the Act, in part, states as follows:

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.

The landlord provided undisputed evidence that the tenant failed to pay the outstanding rent in the amount of \$12,100.00 for this tenancy. Therefore, I find that the landlord is entitled to \$12,100.00 in outstanding rent for this tenancy.

The landlord continues to hold the tenant's security deposit of \$1,100.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

As the landlord was successful in their application, I find that the landlord is entitled to recover the filing fee for this application.

Conclusion

I issue a \$11,100.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, the filing fee for this application, and also allows the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

Item	Amount
Unpaid Rent for April to September 2020	\$12,100.00
Recovery of Filing Fee for this Application	100.00
Security Deposit	-1,100.00
Total Monetary Order	\$11,100.00

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 *Residential Tenancy Act*.

Dated: September 24, 2020

Residential Tenancy Branch