



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CHERRY CREEK PROPERTY SERVICE
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*"), made on July 2, 2020. The Landlord applied for a monetary order for unpaid rent, permission to retain the security deposit and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlord's Agent (the "Landlord") attended the hearing and was affirmed to be truthful in their testimony. As the Tenant did not 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. The Landlord testified that they had served the Application for Dispute Resolution and Notice of Hearing to the Tenants by Canada Post Registered mail sent on July 7, 2020. I find that the Tenant had been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

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 retain the security deposit?
- 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 November 1, 2019, as a one-year fixed term tenancy. The Landlord testified that rent in the amount of \$1,850.00 was to be paid by the first day of each month and that they had been given a \$925.00 security deposit and an \$825.00 pet damage deposit at the outset of this tenancy.

The Landlord testified that the tenancy ended early when the Tenants moved-out of the rental unit as of June 22, 2020.

The Landlord testified that the tenancy had ended with \$3,700.00 in outstanding rent, consisting of \$1,000.00 for April 2020, \$1,350.00 for May 2020, and \$1,350.00 for June 2020. The Landlord is requesting a monetary order for the outstanding rent.

Analysis

Based on the evidence before me, the testimony of these parties, 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 accept the undisputed testimony of the Landlord that the full rent has not been paid the months of April, May and June 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 \$3,700.00, comprised of \$1,000.00 in rent for April 2020, \$1,350.00 in rent for May 2020, and \$1,350.00 in rent for June 2020. I grant the Landlord permission to retain the security deposit and pet damage deposits for this tenancy rent; they are holding for this tenancy in partial satisfaction of this award.

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 in the amount of \$2,050.00, consisting of \$3,700.00 in unpaid rent, \$100.00 in the recovery of the filing fee for this hearing, less the \$925.00 security deposit and less the \$825.00 pet damage deposit they are holding for this tenancy.

Conclusion

I find for the Landlord under sections 26, 65 and 72 of the Act. I grant the Landlord a **Monetary Order** in the amount of **\$2,050.00**. 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: October 23, 2020

Residential Tenancy Branch