



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, MNRL, FFL

Introduction

This hearing was scheduled to convene at 1:30 p.m. September 28, 2020 by way of conference call concerning an application made by the landlords seeking a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; a monetary order for unpaid rent or utilities; and to recover the filing fee from the tenant for the cost of the application.

Both landlords attended the hearing and one gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The landlord testified that the tenant was served with the Application for Dispute Resolution, notice of this hearing and evidentiary material (the Hearing Package) by registered mail on July 23, 2020. The landlords have provided a copy of a Registered Domestic Customer Receipt addressed to the tenant as well as a Canada Post cash register receipt dated July 23, 2020, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Since filing the Application of Dispute Resolution, the landlords have provided 4 other documents as evidence to the Residential Tenancy Branch case management system, but did not serve the tenants with another package of evidence for this hearing. The 4 documents include a notice to end the tenancy, and the landlords seek, in addition to the monetary compensation, an Order of Possession for unpaid rent.

In order to be successful in obtaining an Order of Possession, the landlords are required to make an Application for Dispute Resolution, or amend the Application for Dispute Resolution that is currently before me, to put the tenant on notice that the landlords intend to make that application. Since the landlords have not done so, the landlords cannot be successful in obtaining an Order of Possession.

Issues to be Decided

- Have the landlords established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for interest on delinquent rent?
- Have the landlords established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord testified that this fixed-term tenancy began on June 1, 2015 and expired on May 31, 2016. However, a new tenancy agreement was signed by the parties for a fixed-term tenancy to begin on March 1, 2016 which reverted to a month-to-month tenancy after May 31, 2016. The second tenancy agreement was created to remove the name of a co-tenant. Rent in the amount of \$1,850.00 was originally payable on the 1st day of each month, which was raised to \$1,925.00 in September, 2017. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$925.00 which is still held in trust by the landlords, which included a pet damage deposit. The rental unit is a full house, single family dwelling, and the landlords do not reside on the rental property. A copy of both tenancy agreements have been provided as evidence for this hearing.

The landlord further testified that the tenant is currently in arrears of rent the sum of \$11,550.00 for the months of April, 2020 to September, 2020 inclusive. The evidentiary material indicates that the tenant was in arrears of rent for part of February and for the month of March, 2020, however on August 27, 2020 the tenant paid \$2,450.00 which covered the balance owed for February and the required rent payment for March, 2020, so currently there are no rental arrears for February or March.

The landlord also testified that any rent due during the pandemic, tenants are permitted to not pay rent. The landlord's understanding is that rent that became due between March 18 an August 17, 2020 require a payment plan, which is calculated over a 10 month period. A repayment plan was also served on the tenant on August 24, 2020, and a copy has been provided for this hearing, but the tenant has not made any rent payments. The repayment plan is for a total of \$9,625.00 from April through August, with a repayment schedule of \$962.50 per month commencing on October 1, 2020.

The landlords seek a monetary order for unpaid rent in the amount of \$11,550.00 and \$310.10 interest.

Analysis

Firstly, a landlord may not charge interest on overdue rent, and therefore the landlords' application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement must be dismissed.

With respect to the unpaid rent, the updates to residential tenancies that impact landlords and tenants due to the COVID-19 pandemic does not affect the amount of rent a landlord may collect or a landlord's right to make a claim for the unpaid rent. However, "affected rent" is rent that becomes due between March 18, 2020 and August 17, 2020.

In this case, the landlord filed the Application for Dispute Resolution on July 21, 2020. I refer to Residential Tenancy Policy Guideline 52, which states, in part:

E. APPLICATIONS FOR MONETARY ORDERS FOR UNPAID AFFECTED RENT MADE BEFORE JULY 31, 2020

If a valid repayment plan has been given to a tenant and the tenant is in good standing because:

- the first payment has not come due, or
- the tenant is paying the installments as required,

an arbitrator may grant a monetary order but it will be subject to the terms of the repayment plan. The order will set out that the tenant must pay the unpaid affected rent in accordance with the repayment plan.

If a tenancy has ended prior to a repayment plan being given, or ends after a repayment plan has been given or there is a prior agreement and the tenant has failed to pay an installment, the arbitrator may grant a monetary order that the unpaid affected rent be paid in full as of the date of the order.

Since the tenant has not yet failed to pay the first installment, that means the tenant is in good standing for the rent owed during the "affected" period. Therefore, I grant a monetary order in favour of the landlords in the amount of \$11,550.00, and I order that the tenant pay the affected rent in accordance with the payment schedule provided by the landlords.

The ban on issuing evictions for non-payment of rent is over as of August 18, 2020, meaning that tenants must pay rent in full the day it is due or the tenant can be evicted. A landlord may issue a notice to end the tenancy for rent that was due before March 18, 2020 and for rent due after August 17, 2020, which in this case would be for rent due on the 1st of September, 2020, which the landlords have done. Further, a landlord must give

the tenant a repayment plan for the unpaid rent during the period of March 18, 2020 to August 17, 2020, which the landlords have also done.

Since the landlords have been partially successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, the landlords' application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, specifically for interest on overdue rent, is hereby dismissed without leave to reapply.

I hereby grant a monetary order for unpaid rent and filing fee in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$11,650.00, and I order the tenant to comply with the payment plan for the "affected rent" given on August 24, 2020.

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 01, 2020

Residential Tenancy Branch