



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNRL-S, MNDL-S, FFL

Introduction

The landlord filed an Application for Dispute Resolution on August 26, 2020 seeking an order to recover monetary loss for unpaid rent, for damage to the rental unit, and for other monetary loss. Additionally, they applied for the cost of the hearing filing fee.

The matter proceeded by way of a hearing on October 2, 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 and the tenant both attended the hearing. In the hearing, the landlord confirmed they delivered notice of this hearing and their prepared evidence to the tenant on August 28, 2020. The tenant confirmed they received the prepared evidence and notice of this hearing from the landlord.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for compensation for damages, and other monetary loss, 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 therein. Both the landlord and tenants signed this agreement on August 29, 2019. The tenancy started on August 29, 2019 for a fixed term ending on September 1, ~~2019~~ 2020. The monthly rent was \$2,100.00 per month. The tenant paid a security deposit of \$1,050.00 on August 29.

~~In the hearing the landlord provided that the rent increased to \$2,450.00 on November 1, 2019. It is this amount that the landlord presents as their calculation of monthly rent for the total amount owing.~~

The tenancy ended when the tenant vacated the unit on July 4, 2020. The tenant agreed in the hearing that this was an abrupt end to the tenancy. They gave reasons and circumstances occurring in 2020 that prompted them to end the tenancy in this manner. The tenant stated they accept full responsibility for amounts owing. On September 2, 2020, they asked via email about a payment plan to the landlord after receiving notice of this hearing.

The landlord presented that missing rent payments started in April, then continued through May and June through to July. In July, the landlord tried to reach out, then found the unit abandoned. By what they found in the unit, they surmised that the unit was abandoned abruptly. They checked on the last door fob activity which registered as July 17. At some point between July 24 and July 29, the landlord concluded the tenant would not return. In the landlord's words, this is when they "figured it out", with no communication from the tenant.

The landlord previously suggested a payment plan to the tenant, but this did not come to fruition when the landlord proposed the plan in June. By this time, the tenant was not communicating with the landlord. This continued through August, and when the landlord applied for this hearing, they sent the notice of this hearing and their prepared evidence to the tenant's previous landlord.

The landlord claims for monetary compensation as follows:

ITEM	\$ AMOUNT	DETAIL
1	7,200.00	April, May, June, July rent at \$2,100 per month
2	2,100.00	August rent amount
3	75.00	repair to wall damage – paid and labour
4	220.50	cleaning services

Item 1 is the amount reached after subtraction of 4 months of subsidy collection of \$300.00 per month. This is \$1,800.00 per month.

For item 2, the landlord presented they were unable to rent the unit to a new tenant for the following month of August. They reiterated that they only understood toward the end of July what was happening with the tenant's departure.

For item 3, the landlord acknowledged they did not add this piece to their total amount claimed on a completed 'Monetary Order Worksheet' dated August 26, 2020. In the hearing, they agreed to waive this amount claimed.

In the hearing, the tenant stated they understood the need for cleaning, and they had "no problem" with reimbursement of this amount for item 4.

The total amount claimed from the landlord – and reviewed in the hearing – is \$9,520.50. They proposed keeping the amount of the security deposit to offset some of this balance. The tenant did not raise any objection to the landlord retaining the security deposit amount.

The landlord submitted they suggested a payment plan; this was "sometime in June." The tenant presented that they attempted to contact the landlord to discuss payment of the amounts owing, but they could not reach the landlord. They stated they were willing to work out a payment plan for these amounts, and reiterated they were responsible for this total amount owing. The landlord did not accept the proposal of a payment plan, given that communication between them and the tenant was non-existent toward the end of the tenancy.

Analysis

From the testimony of the parties I am satisfied that a tenancy agreement was in place. They provided the specific terms of the rental amount and the paid security deposit.

I accept the evidence before me that the tenant failed to pay the full amount of rent from April to July 2020. I find the landlord is entitled to an award for the amount claimed: \$7,200.00. The tenant acknowledged they did not pay this rent amount.

The tenant accepted the amount for cleaning the unit after the end of tenancy. I find the landlord is entitled to this amount.

The *Act* section 45 covers how a tenant may end a tenancy. It provides that a date shall not be earlier than one month after the landlord receives the notice. Here, the landlord did not receive notice from the tenant in a timely fashion, and not within the preceding month. The earliest that the tenant could have legally ended the tenancy in the given circumstances was at the end of August 2020. For this reason, I find the landlord is entitled to the amount of August rent for \$2,100.00.

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 \$9,520.50. After setting off the security deposit amount of \$1,050.00, there is a balance of \$8,470.50. I am authorizing the landlord to keep the security deposit amount and award the balance of ~~\$8,470.00~~ \$8,470.50 as compensation for amounts owing as claimed.

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 ~~\$8,570.00~~ \$8,570.50, inclusive of the \$100.00 filing fee. 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: October 5, 2020

CORRECTED DATE: October 20, 2020

Residential Tenancy Branch