



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL**

Introduction

This hearing dealt with the landlords' application pursuant to section 67 of the *Residential Tenancy Act* (the *Act*) for a monetary award for unpaid rent.

The tenant did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlords were represented by their family member (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the hearing package on July 9, 2020, by registered mail. The landlord provided a valid Canada Post tracking receipt as evidence of service. Based on the landlord's evidence I find the tenant is deemed served with the landlord's materials on July 14, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*. I note that pursuant to Residential Tenancy Policy Guideline 12 the refusal of a party to pick up the registered mail does not override the deeming provisions.

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?

Background and Evidence

The monthly rent for this periodic tenancy, which started in July 2018, was \$1,200.00 payable on the first of each month. A security deposit of \$550.00 was collected at the start of the tenancy and is still held by the landlord.

The tenant failed to pay the full rent owed for the months of April and June, 2020. The tenant subsequently terminated the tenancy without notice, leaving the rental unit sometime in June, 2020. The landlord submits that there is a rental arrear of \$1,700.00.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the evidence of the landlord that there was a valid tenancy agreement wherein the tenant was obligated to pay rent in the amount of \$1,200.00 each month. I accept the evidence of the landlord that the tenant failed to pay the rent for the months of April and June, 2020 and subsequently ended the tenancy with a rental arrear of \$1,700.00. Accordingly, while the rental arrear arises from unpaid affected rent as defined in the COVID-19 (Residential Tenancy Act and Manufactured Home Park Tenancy Act) (No. 2) Regulation, as expanded upon in Residential Tenancy Policy Guideline 52:

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.

Accordingly, I issue a monetary order in the landlord's favor in the amount of \$1,700.00 as at the date of the hearing.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's full security deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,150.00, allowing the landlord to recover the unpaid rent and to retain the security deposit for this tenancy. 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: October 29, 2020

Residential Tenancy Branch