



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant under the Residential Tenancy Act (the Act), seeking:

- Compensation for monetary loss or other money owed;
- Retention of the Tenant's security deposit; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlord, who provided affirmed testimony. No one appeared on behalf of the respondents. The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) state that the respondents must be served with a copy of the Application and Notice of Hearing. As neither the respondents nor an agent for the respondents attended the hearing, I confirmed service of these documents as explained below.

As the Landlord acknowledged that the one of the respondents Ju.H. was not served, I have amended the Application to remove them as a respondent.

The Landlord testified that the remaining respondent Ja.H., referred to as the Tenant throughout this decision, was sent the documentary evidence before me and the Notice of Dispute Resolution Proceeding Package, including a copy of the Application and the Notice of Hearing, by registered mail on August 13, 2020, as required by the Act and the Rules of Procedure. The Landlord stated that two addresses were used, the address used by them when they applied to rent the unit as well as the forwarding address provided by them in writing on July 24, 2020. The Landlord provided me with

the registered mail receipts and tracking numbers and Canada Post confirms that both packages were sent as described above and delivered August 14, 2020. As a result, I find that the Tenant was served in accordance with the Act and the Rules of Procedure on August 14, 2020. Pursuant to rule 7.3 of the Rules of Procedure, the hearing therefore proceeded as scheduled despite the absence of the Tenant.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure, I refer only to the relevant and determinative facts, evidence and issues in this decision.

At the request of the Landlord, copies of the decision and any orders issued in their favor will be emailed to them at the email address provided in the Application.

Issue(s) to be Decided

Is the Landlord entitled to compensation for monetary loss or other money owed?

Is the Landlord entitled to retain the Tenant's security deposit?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy agreement in the documentary evidence before me, signed on June 12, 2020, states that the one year fixed term tenancy agreement was to commence on August 1, 2020, and end on July 31, 2021, after which date the tenancy would become month to month. The tenancy agreement states that rent in the amount of \$1,200.00 is due on the first day of each month and that a \$600.00 security deposit was to be paid. During the hearing the Landlord stated that these are the correct terms for the tenancy agreement and that they still hold the \$600.00 security deposit.

The Landlord stated that a few days before the start of the tenancy as set out in the tenancy agreement, the Tenant and their roommate stated that they would not be moving in and never occupied the rental unit as a result. The Landlord submitted correspondence between themselves and the Tenant in support of this testimony.

The Landlord stated that although the rental unit was advertised for rental in August 2020, a new tenant ultimately could not be secured until September 2020, and as a result, they suffered a \$1,200.00 loss in rent for August. The Landlord stated that they

also suffered a loss of \$300.00 to remove furniture and fixtures from the rental unit at the Tenant's request. In support of this testimony the Landlord submitted correspondence from the Tenant requesting the removal of these items from the rental unit.

Based on the above, the Landlord sought recovery of \$1,500.00 for lost rent and other monetary loss, plus recovery of the \$100.00 filing fee.

No one appeared on behalf of the Tenant at the hearing, despite my finding earlier in this decision that they were served with a copy of the Application, the Notice of Hearing, and the documentary evidence before me from the Landlord, by registered mail, on August 14, 2020.

Analysis

Based on the uncontested documentary evidence and affirmed testimony before me from the Landlord, I am satisfied that the Tenant breached section 45(2) of the Act when they ended their fixed term tenancy agreement earlier than allowable under the Act, resulting in a loss by the Landlord of \$1,500.00 in rent and other costs. I am also satisfied that the Landlord acted reasonably to mitigate this loss by advertising the rental unit for re-rental quickly and by having the rental unit re-rented within a reasonable period of time after receiving notice from the Tenant that they did not intend to move in. As a result, I grant the Landlord recovery of the \$1,500.00 sought pursuant to section 7 of the Act.

As the Landlord was successful in their Application, I also grant them recovery of the \$100.00 filing fee pursuant to section 72(1) of the Act. I am satisfied based on the Landlord's testimony and the Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit dated July 24, 2020, that the Landlord's Application filed on July 27, 2020, was filed in compliance with section 38(1) of the Act. Pursuant to section 72(2)(b) of the Act, I therefore authorize the Landlord to retain the Tenant's \$600.00 security deposit towards the above noted amounts owed.

Pursuant to section 67 of the Act, I therefore grant the Landlord a Monetary Order in the amount of \$1,000.00 and I order the Tenant to pay this amount to the Landlord.

Conclusion

Pursuant to section 67 of the Act, I grant the Landlord a Monetary Order in the amount of **\$1,000.00**. 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. The tenant is cautioned that costs of such enforcement are recoverable from them by the Landlord.

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: November 23, 2020

Residential Tenancy Branch