



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FFL

Introduction

On August 6, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking a monetary order for unpaid rent; to keep the security deposit, and to recover the filing fee.

The matter was set for a conference call hearing. The Landlord’s agent (“the Landlord”) and Tenant attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during 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.

Preliminary and Procedural Matters

The Landlord’s agent asked that the application be amended to include the corporate name of the Landlord. The Application is amended accordingly.

Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Can the Landlord keep the security deposit towards their claims?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on May 15, 2019, as a one-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$2,275.00 was to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$1,137.50. The Landlord provided a copy of the tenancy agreement. The Landlord and Tenant testified that the tenancy ended when the Tenant moved out of the rental unit on July 31, 2020.

The Landlord testified that the Tenant failed to pay all the rent owing under the tenancy agreement. The Landlord testified that rent from February 2020 to July 2020 amounts to \$13,650.00 and that the Tenant only paid \$2750.00 which leaves a balance owing of \$10,900.00.

The Landlord has applied to keep the security deposit of \$1,137.50 towards the unpaid rent and is seeking to recover the cost of the \$100.00 filing fee.

The Landlord wants a monetary order in the amount of \$9,862.50.

In reply, the Tenant testified that she had recently left her job prior to February 2020 and did not have the money to pay the rent due to the covid 19 pandemic. The Tenant testified that the Landlords monetary claim is correct, and she testified that she owes the Landlord \$9,862.50 for unpaid rent.

Security Deposit

On August 6, 2020, the Landlord applied to keep the security deposit of \$1,137.50 in partial satisfaction of his claim for unpaid rent.

Analysis

Section 26 of the Act provides that 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.

Residential Tenancy Policy Guideline # 3 Claims for Rent and Damages for Loss of Rent provides the following information:

The damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement.

Based on the evidence before me, and the testimony of the Landlord and Tenant, I make the following findings:

I find that the Tenant failed to pay the rent owing under the tenancy agreement and owes the Landlord \$10,900.00 in unpaid rent for the six-month period from February 2020 to July 2020.

I authorize the Landlord to keep the security deposit of \$1,137.50 in partial satisfaction of the award for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

After setting off the security deposit of \$1,137.50 towards the award of \$11,000.00, I find that the Landlord is entitled to a monetary order in the amount of \$9,862.50. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant failed to pay all the rent owing under the tenancy agreement for a six-month period of time.

The Landlord can keep the \$1,137.50 security deposit and has established a monetary claim for unpaid rent and the cost of the filing fee in the amount of \$9,862.50.

I grant the Landlord a monetary order in the amount of \$9,862.50.

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: November 26, 2020

Residential Tenancy Branch