



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Belmont Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for unpaid rent of \$1,277.00; and to recover the \$100.00 cost of their Application filing fee.

An agent for the Landlord, T.C. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over ten minutes and was monitored throughout this time. The only person to call into the hearing was the Agent, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Agent.

I explained the hearing process to the Agent and gave her an opportunity to ask questions about the hearing process. During the hearing the Agent was given the opportunity to provide her evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agent testified that she served the Tenant with the Notice of Hearing documents by Canada Post registered mail, sent on July 23, 2020. The Landlord provided a Canada Post tracking number as evidence of service. I find that the Tenant was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the

Application and evidentiary documents, and I continued to hear from the Agent in the absence of the Tenant.

Preliminary and Procedural Matters

The Agent provided the Landlord's email address in the Application, and she confirmed her understanding that the Decision would be emailed to the Landlord and mailed to the Tenant at the rental unit address.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the \$100.00 Application filing fee?

Background and Evidence

The Landlord submitted a tenancy agreement, which set out the following details of the tenancy. It started on May 1, 2015, and ran to April 30, 2016, and then operated on a month-to-month basis. Under the tenancy agreement, the Tenant was required to pay the Landlord a monthly rent of \$795.00, which has since risen to \$877.00, as of a series of rent increases over the years.

The Agent confirmed that the Tenant continues to live in the rental unit. As such, she said that the Landlord prepared a Repayment Plan for the Tenant for his affected rent outstanding from insufficient payments of rent in June and July 2020. The Agent said that the Tenant owes \$400.00 rent from June 2020, and \$877.00 from July 2020.

The Agent said that she would like a monetary order for the amount of unpaid rent outstanding; however, I explained that the Repayment Plan is designed to require tenants to pay back unpaid rent incurred during the state of emergency in the Spring and Summer of 2020.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Policy Guideline #52 ("PG #52"), is a policy guideline which addresses the *COVID-19 (Residential Tenancy and Manufactured Home Park Tenancy Act) (No. 2) Regulation*

(“Covid-19 Regulation”), made under the *Emergency Program Act* and the *COVID-19 Related Measures Act*.

Sections 3 and 12 of the C19 Tenancy Regulation provide that a landlord must not give a tenant notice to end a tenancy in respect of affected rent that is unpaid under sections 44(1)(a)(ii) and 46 of the *Residential Tenancy Act* (RTA), and sections 37(1)(a)(ii) and 39 of the *Manufactured Home Park Tenancy Act* (MHPTA). Notices to end tenancy for affected rent may only be issued when the conditions set out in the C19 Tenancy Regulation have been met.

“Affected rent” means

- rent that becomes due to be paid by a tenant in accordance with a tenancy agreement during the “specified period” between March 18, 2020 and August 17, 2020, and
- utility charges that become due to be paid by a tenant during the “specified period” between March 18, 2020 and August 17, 2020, if a tenancy agreement requires the tenant to pay utility charges to the landlord.

The “specified period” is the period between March 18, 2020 and August 17, 2020 (as this date was earlier than the date on which the state of emergency expires or is cancelled). If, for example, the tenancy agreement stipulates that rent is paid on the first of each month, then the following rent payments were due within the specified period and are affected rent:

- April 1, 2020
- May 1, 2020
- June 1, 2020
- July 1, 2020
- August 1, 2020

The C19 Tenancy Regulation provides that a landlord must give a tenant a repayment plan if the tenant has unpaid affected rent, unless a prior agreement has been entered into and has not been cancelled. If the parties are no longer in a landlord-tenant relationship because the tenancy has ended, a repayment plan would not be required.

The Repayment Plan is intended to give tenants a reasonable timeframe to pay back any rent they owe from the specified period of March 18, 2020 to August 17, 2020.

In the case before me, the Agent said that the Tenant has complied with the Parties' Repayment Plan; therefore, I find that the Landlord is not currently eligible for a monetary order for unpaid, affected rent payable pursuant to the Repayment Plan.

As a result, I dismiss the Landlord's Application without leave to reapply. Given that the Landlord was unsuccessful in this claim, I decline to award the Landlord with recovery of the \$100.00 Application filing fee.

Conclusion

The Landlord is unsuccessful in their Application for a monetary order against the Tenant for unpaid affected rent, since the Tenant is still living in the rental unit and has complied with the Parties' Repayment Plan to date. Therefore, the Landlord's Application is dismissed without leave to reapply.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 10, 2020

Residential Tenancy Branch