



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for compensation for unpaid rent, pursuant to section 67;
- an authorization to retain the tenants' security deposit, under section 38; and
- an authorization to recover the filing fee for this application, pursuant to section 72.

I left the teleconference connection open until 1:48 P.M. to enable the tenants to call into this teleconference hearing scheduled for 1:30 P.M. The tenants did not attend the hearing. The landlord, represented by agent VS (the landlord), attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

I accept the landlord's testimony that the tenants were served with the application and evidence (the materials) in two separate packages by registered mail on August 20, 2020, in accordance with section 89(2)(b) of the Act (the tracking numbers are recorded on the cover of this decision).

Section 90 of the Act provides that a document served in accordance with Section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail the tenants are deemed to have received the materials on August 25, 2020, in accordance with section 90 (a) of the Act.

Rule of Procedure 7.3 allows a hearing to continue in the absence of the respondents.

Issues to be Decided

Is the landlord entitled to:

1. a monetary order for unpaid rent?

2. an authorization to retain the tenants' security deposit?
3. an authorization to recover the filing fee?

Background and Evidence

While I have turned my mind to the evidence provided by the attending party, including documentary evidence and the landlord's testimony, not all details of the submission and arguments are reproduced here. I explained Rule of Procedure 7.4 to the attending party; it is the landlord's obligation to present the evidence to substantiate his claims.

The landlord testified the periodic tenancy started on February 01, 2019. Monthly rent was \$2,475.00, due on the first day of the month. At the outset of the tenancy a security deposit of \$1,237.50 was collected and the landlord holds it in trust. A tenancy agreement was submitted into evidence.

The landlord affirmed on September 30, 2020 the tenants abandoned the rental unit. The landlord watched surveillance camera footage showing the tenants moving out of the rental unit on September 30, 2020. The tenants did not provide a forwarding address and did not return the keys.

The landlord said the tenants only partially paid rent in April, May and August 2020. The balances are: \$1,675.00 for April, \$1,325.00 for May and \$1,875.00 for August. The total balance is \$4,875.00.

A monetary order worksheet was submitted into evidence.

The landlords obtained an order of possession on September 23, 2020 (the file number is on the cover page of this decision), as the tenancy ended on September 15, 2020 under a ten-day notice to end tenancy for unpaid rent dated September 02, 2020.

Analysis

I accept the landlord's uncontested testimony that the tenancy agreement requires the tenants to pay monthly rent of \$2,475.00 on the first day of the month.

Section 26 of the Act requires that a tenant pay rent when it is due under the tenancy agreement.

Based on the landlord's undisputed testimony and the tenancy agreement, I find the tenants are in arrears for the balance of rent for April (\$1,675.00), May (\$1,325.00) and August 2020 (\$1,875.00). The total amount in arrears is \$4,875.00.

As the landlord was successful in his application, I find that the landlord is entitled to recover the \$100.00 filing fee.

As explained in section D.2 of Policy Guideline #17, the monetary amount or cost awarded to a landlord may be deducted from the security deposit held by the landlord. I order the landlord to retain the \$1,237.50 security deposit.

In summary:

Balance of April's rent	\$1,675.00
Balance of May's rent	\$1,325.00
Balance of August's rent	\$1,875.00
Filing fee	\$100.00
Sub-total	\$4,975.00
Security deposit	-\$1,237.50
Monetary award	\$3,737.50

Conclusion

Pursuant to sections 38 and 67 of the Act, I authorize the landlord to retain the \$1,237.50 security deposit and grant the landlord a monetary order in the amount of \$3,737.50.

The landlord is provided with this order in the above terms and the tenants must be served with **this order** as soon as possible. Should the tenants 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: December 09, 2020

Residential Tenancy Branch