



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TRG THE RESIDENTIAL GROUP
REALTY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

On September 24, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for unpaid rent, to apply the security deposit towards the claim, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

Preliminary Matter

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 18-minute hearing. The Landlord testified that they were granted the ability to serve the Tenant the Notice of Dispute Resolution Proceeding package via email, in a Substituted Service Decision, dated October 13, 2020.

The Landlord submitted a copy of the email that he sent to the Tenant on October 16, 2020, as directed by the adjudicator in the October 13, 2020 Decision. As a result, I find that the Tenant has been duly served with the Notice of Dispute Resolution Proceeding on October 19, 2020, in accordance with Section 89(1)(e) of the Act.

Issues to be Decided

Should the Landlord receive a Monetary Order for unpaid rent, in accordance with section 67 of the Act?

Should the Landlord be authorized to apply the security deposit to the claim, in accordance with sections 38 and 72 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

Background and Evidence

The Landlord submitted a Tenancy Agreement that indicated that the two-year, fixed-term tenancy began on June 1, 2011 and continued as a month-to-month tenancy. The rent was \$1,375.00 and due on the first of each month. The Landlord collected and still holds a security deposit in the amount of \$687.50.

The Landlord testified that the rent was increased to \$1,466.00 per month but did not provide any supporting documentation to demonstrate how and when the rent increases were applied to the monthly rent.

The Landlord testified that the Tenant paid their rent in a timely manner until April 2020.

The Landlord submitted that the Tenant failed to pay their rent for April, May, June and July 2020. The Landlord stated that on July 3, 2020 the Tenant provided notice that he was ending the tenancy by July 15, 2020. The Tenant moved out of the rental unit on July 22, 2020.

The Landlord is claiming the loss of rent for four months.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of the rent.

The Landlord testified, and provided undisputed documentary evidence to support their submission, that the Tenant did not pay rent when it was due and is in arrears for four months of rent. I note that there is no evidence before me that the Tenant had a right under the Act to not pay the rent.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the Landlord has met the onus of proving their monetary claim for unpaid rent. As the Landlord failed to provide sufficient evidence to support how and when the rent had been increased during the tenancy, I award compensation for four months of rent at the

monthly rate of \$1,375.00, as noted in the Tenancy Agreement, for a total amount of \$5,500.00.

I find that the Landlord's Application has merit and that the Landlord is entitled to recover the cost of the filing fee for this Application for Dispute Resolution, in the amount of \$100.00, pursuant to section 72 of the Act.

Pursuant to section 72(2) of the Act, I authorize the Landlord to keep the Tenant's security deposit in the amount of \$687.50.00, in partial satisfaction of the monetary claim.

A total monetary order, which is issued in conjunction with this Decision, is granted to the Landlord in the amount of \$4,912.50.

Conclusion

Pursuant to Section 67 of the Act, I grant the Landlord a Monetary Order for \$4,912.50. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: January 29, 2021

Residential Tenancy Branch