



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent and to recover the cost of the filing fee.

The landlord and the landlord’s legal counsel attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondents must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s counsel stated that the Application for Dispute Resolution and Notice of Hearing were served in person on the tenants on September 26, 2020. An affidavit of service has been filed in evidence.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The tenancy began in September 2013. Rent in the amount of \$2,850.00 was payable on the first of each month. The tenants paid a security deposit which was transfer to the

new owners that took possession of the property on May 31, 2020, and the tenancy continued with the new owners.

Counsel for the landlord stated that the tenant was always behind in their rent and rent arrears of \$9,650.00 had accumulated as of March 2, 2019. Filed in evidence is a copy of a rent receipt that shows \$9,650.00 was owed, which is signed by the tenant.

Counsel for the landlord stated that the tenant was paying some rent and the landlord was giving the tenant some deduction in the rent for the remainder of the tenancy; however, at the time the property transferred the tenant still owed the landlord the amount of 9,650.00, in rent arrears.

Filed in evidence are rent receipts from April 2019 to May 2020. The last rent receipts that was signed by the tenant shows they agreed they owed the amount of \$3,650.00.

Counsel submits the that the previous balance of \$6,000.00 was not carried forward on this receipt. The landlord seeks to recover unpaid rent in the amount of \$9,650.00.

Filed in evidence is an affidavit from the landlord on the issue of rent, rent payments and receipts.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

Rules about payment and non-payment of rent

26 (1) *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.*

...

I accept the undisputed evidence that the tenant failed to pay all rent owed to the pervious landlord. This is supported by the rent receipts. While the receipts are confusing, I have calculated the amount owed, which is accurate with the landlord's claim. I find the tenant breached the Act when the failed to pay all rent owed under the term of their tenancy agreement and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent that accumulated between September 2013 and May 2020 in the total amount of **\$9,650.00**.

I find that the landlord has established a total monetary claim of **\$9,750.00** comprised of the above described amount and the \$100.00 fee paid for this application.

This 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 landlord is granted a monetary order .

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 11, 2021

Residential Tenancy Branch