



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

On October 7, 2020, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”), seeking to apply the security deposit towards this debt pursuant to Section 38 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Both the Landlord and the Tenant attended the hearing. All parties in attendance provided a solemn affirmation.

The Landlord advised that the Notice of Hearing and evidence package was served to the Tenant by registered mail on October 14, 2020, and the Tenant confirmed that he received this package. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant received the Notice of Hearing and evidence package. As this evidence was served in accordance with the timeframe requirements of Rule 3.14 of the Rules of Procedure, I have accepted the Landlord’s evidence and will consider it when rendering this Decision.

The Tenant advised that he served his evidence to the Landlord by email on January 25, 2021. The Landlord checked her email during the hearing and realized that this was sent last night. She advised that she was not prepared to respond to this late evidence. As this evidence was not served in a manner pursuant to Section 88 of the *Act*, nor was it served in accordance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have excluded the Tenant’s evidence and will not consider it when rendering this Decision.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral

and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?
- Is the Landlord entitled to apply the security deposit towards this debt?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started as an unwritten month-to-month tenancy on September 1, 2020. However, the tenancy ended when the Tenant gave up vacant possession of the rental unit on September 30, 2020. Rent was established at an amount of \$770.00 per month and was due on the last day of each month. A security deposit of \$385.00 was also paid.

Settlement Agreement

The possibility of a settlement was raised, pursuant to Section 63(1) of the *Act*, which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding Decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding Decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written Decision and make any necessary Orders. I also explained that the written Decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlord and the Tenant agreed as follows:

1. The Landlord is permitted to keep the security deposit in the amount of \$385.00.
2. The Landlord is not entitled to recover the filing fee.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that they understood the binding nature of this full and final settlement of these matters.

Conclusion

The parties reached a full and final settlement agreement in resolution of this dispute. I have recorded the terms of settlement in this Decision and in recognition of the settlement agreement above, the Landlord shall retain the security deposit to satisfy this debt. No further Applications can be made by either party with respect to this tenancy.

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 26, 2021

Residential Tenancy Branch