



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "Act") made on October 10, 2020. The Landlord applied for a monetary order for unpaid rent, permission to retain the security deposit and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlord attended the hearing and was each affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. The Landlord testified that they served the Tenant with the Notice of Hearing documents by Canada Post Registered mail, sent on October 16, 2020; a Canada post tracking number was provided as evidence of service. I find that the Landlord has satisfied me that the Tenant had been duly served with the Notice of Hearing in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent?
- Is the Landlord entitled to retain the security deposit?
- Is the Landlord entitled to the return for their filing fee for this application?

Background and Evidence

The tenancy agreement shows that the tenancy began on June 1, 2020, as a month to month tenancy. The Landlord testified that rent in the amount of \$1,100.00 was to be

paid by the first day of each month. The tenancy agreement recorded that the Landlord had been given a \$550.00 security deposit at the outset of this tenancy.

The Landlord testified that the tenancy ended on December 11, 2020, when the Tenant moved out in accordance with an order of possession issued by the Residential Tenancy Branch.

The Landlord testified that by the end of this tenancy there was \$6,000.00 outstanding in unpaid rent; consisting of, \$500.00 July 2020, \$1,100.00 for August 2020, \$1,100.00 for September 2020, \$1,100.00 for October 2020, \$1,100.00 for November 2020 and \$1,100.00 for December 2020. The Landlord is requesting a monetary order for the outstanding rent.

Analysis

Based on the evidence before me, the testimony of these parties, and on a balance of probabilities that:

Section 26(1) of the Act states that a tenant must pay the rent when it is due under the tenancy agreement.

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.*

(2) A landlord must provide a tenant with a receipt for rent paid in cash.

(3) Whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not

(a) seize any personal property of the tenant, or

(b) prevent or interfere with the tenant's access to the tenant's personal property.

(4) Subsection (3) (a) does not apply if

(a) the landlord has a court order authorizing the action, or

(b) the tenant has abandoned the rental unit and the landlord complies with the regulations.

In this case, I accept the Landlord's testimony that the rent has not been paid for July, August, September, October, November and December 2020. I find that the Tenant

breached section 26 of the *Act* when they did not pay the rent as required under the tenancy agreement.

Therefore, I find that the Landlord has established an entitlement to a monetary award in the amount of \$5,450.00, comprised of \$500.00 July 2020, \$1,100.00 for August 2020, \$1,100.00 for September 2020, \$1,100.00 for October 2020, \$1,100.00 for November 2020 and \$1,100.00 for December 2020., less the \$550.00 the Landlord is holding as a security deposit for this tenancy.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has been successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this hearing.

I grant the Landlord a monetary order of \$5,500.00, consisting of \$5,450.00 in rent and the recovery of the \$100.00 filing fee for this hearing.

Conclusion

I find for the Landlord under sections 26, 65 and 72 of the *Act*. I grant the Landlord a **Monetary Order** in the amount of **\$5,550.00**. The Landlord is provided with this Order in the above terms, and the Tenant must be served with this Order as soon as possible. Should the Tenant 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: January 29, 2021

Residential Tenancy Branch