



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, FFL

Introduction

On December 4, 2020, the Landlord applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenant did not attend at any point during the 13-minute teleconference. All parties in attendance provided a solemn affirmation.

He advised that the Tenant was served the Notice of Hearing and evidence package on December 11, 2020 by registered mail (the registered mail tracking number is noted of the first page of this Decision). The tracking history indicated that this package was delivered on December 14, 2020. Based on this undisputed testimony, I am satisfied that the Tenant was sufficiently served the Landlord’s Notice of Hearing and evidence package. Furthermore, as service of this evidence complied with the timeframe requirements of Rule 3.14 of the Rules of Procedure, I have accepted all of the Landlord’s evidence and will consider it when rendering this Decision.

All parties 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 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.

The Landlord advised that the tenancy started on or around December 29, 2019 and the tenancy ended on April 1, 2020 when the Tenant gave up vacant possession of the rental unit. Rent was established at \$900.00 per month and was due on the first day of each month. A security deposit of \$450.00 was also paid. A separate Decision was rendered with respect to the security deposit (the relevant file number is noted on the first page of this Decision).

He submitted that he is seeking compensation in the amount of **\$900.00** because the Tenant gave written notice on March 11, 2020 to end the tenancy and she gave up vacant possession of the rental unit on April 1, 2020. He did not receive any rent from the Tenant for April 2020.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 67 of the *Act* allows a Monetary Order to be awarded for damage or loss when a party does not comply with the *Act*.

With respect to claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, “It is up to the party who is claiming compensation to provide evidence to establish that compensation is due”, that “the party who suffered the damage or loss can prove the amount of or value of the damage or loss”, and that “the value of the damage or loss is established by the evidence provided.”

As noted above, the purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. When establishing if monetary compensation is warranted, it is up to the party claiming compensation to provide evidence to establish that compensation is owed. In essence, to determine whether compensation is due, the following four-part test is applied:

- Did the Tenant fail to comply with the *Act*, regulation, or tenancy agreement?
- Did the loss or damage result from this non-compliance?
- Did the Landlord prove the amount of or value of the damage or loss?
- Did the Landlord act reasonably to minimize that damage or loss?

Regarding the Landlord's claim for compensation for rental loss, when reviewing the totality of the evidence before me, there is no dispute that the tenancy was a month-to-month tenancy, and the tenancy effectively ended when the Tenant gave up vacant possession of the rental unit on April 1, 2020. Sections 44 and 45 of the *Act* set out how tenancies end and also specifies that the Tenant must give written notice to end a tenancy. As well, this notice cannot be effective earlier than one month after the date the Landlord receives the notice, and is the day before the day in the month that rent is payable under the tenancy agreement. Section 52 of the *Act* outlines what is required regarding the form and content of a written notice to end tenancy. As well, Section 53 of the *Act* states that any incorrect effective date on a notice to end a tenancy will automatically self-correct to the appropriate date.

What this means is that if the Tenant wanted to end the tenancy on March 30, 2020, as rent is due on the first day of each month, written notice must have been received by the Landlord on or before February 29, 2020. As her written notice was served on March 11, 2020, the effective date of this notice will automatically self-correct to April 30, 2020 and she would be responsible for April 2020 rent.

Based on the undisputed evidence before me, the Tenant provided the Landlord with a notice in writing to end her tenancy but gave up vacant possession of the rental unit early. While she was entitled to vacate early if she wanted, she was not required to do so as the effective date of her notice automatically self-corrected to April 30, 2020. Therefore, I find that the Tenant vacated the rental unit contrary to Sections 45 and 53 of the *Act*.

Given that the Tenant was in a month-to-month tenancy and that her written notice to end tenancy was served mid-March 2020, I am satisfied that she was still liable for the

entirety of April 2020 rent. Consequently, I grant the Landlord a monetary award in the amount of **\$900.00** to satisfy this claim.

As the Landlord was successful in this claim, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a Monetary Order as follows:

Calculation of Monetary Award Payable by the Tenant to the Landlord

April 2020 rent	\$900.00
Filing fee	\$100.00
TOTAL MONETARY AWARD	\$1,000.00

Conclusion

The Landlord is provided with a Monetary Order in the amount of **\$1,000.00** 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: March 25, 2021

Residential Tenancy Branch