



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIRST SERVICE RESIDENTIAL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "Act"), made on December 22, 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.

Three Agents for the Landlord (the "Landlord"), the Tenant and the Tenant's parent (the "Tenant") attended the hearing and were each affirmed to be truthful in their testimony. Both the Tenant and the Landlord were 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

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The parties agreed that this tenancy began on January 15, 2015, as a one-year fixed-term tenancy that rolled into a month-to-month tenancy at the end of the initial fixed term. The parties agreed that rent in the amount of \$1,108.08 is to be paid by the first day of each month and that the Landlord had been given a \$475.00 security deposit at the outset of this tenancy. The Landlord submitted a copy of the tenancy agreement into documentary evidence.

The parties agreed that this tenancy ended on November 30, 2020, but that the Tenant had physically moved out of the rental unit as of November 24, 2020.

The Landlords testified that the Tenant had not paid the rent for November 2020 in the amount of \$1,108.08. The Landlord also testified that the Tenant had not paid the full amount due under the Covid-19 Rent Repayment Plan by the end of this tenancy and that they still owe \$1,642.68 in outstanding rent under that payment plan. The Landlord is requesting a monetary order for the outstanding rent.

The Tenant agreed that they did not pay the rent for November 2020 and that they owe the \$1,642.68 under a Covid-19 Rent Repayment Plan for this tenancy.

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 agreed-upon testimony of these parties that the rent has not been paid for November 2020 or for the Covid-19 affected Rent Repayment Plan for this tenancy. 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 \$2,750.76, comprised of \$1,1080.08 in rent for November 2020 and \$1,642.65 in unpaid rent under the Covid-19 Rent Repayment Plan. I grant the Landlord permission to retain the \$475.00 security deposit they are holding for this tenancy in partial satisfaction of this award.

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 Landlords a monetary order of \$2,375.76, consisting of \$2,750.76 in unpaid rent, \$100.00 in the recovery of the filing fee for this hearing, less the \$475.00 security deposit they are holding for this tenancy.

Conclusion

I find for the Landlord under sections 26, 38, 67 and 72 of the Act. I grant the Landlord a **Monetary Order** in the amount of **\$2,375.76**. 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: April 30, 2021

Residential Tenancy Branch