



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRIZAN DEVELOPMENTS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNRL, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence in person on January 11, 2021. The landlord clarified the combined package was sent to the tenant via Canada Post Registered Mail on January 7, 2021 and that the package was "hand delivered" by J.H. (the new owner) to M.T. The landlord has submitted a copy of an email from the new owner, D.H. I accept the undisputed affirmed testimony of the landlord and find that the tenant was sufficiently served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on July 1, 2020 on a fixed term tenancy ending on June 30, 2021 and then thereafter on another fixed term of month-to-month basis as per the submitted copy of the signed tenancy agreement dated June 24, 2020. The monthly rent was \$1,500.00 payable on the 1st day of each month. A security deposit of \$750.00 was paid on June 24, 2020.

The landlord seeks a monetary claim of \$3,100.00 which consists of:

\$1,500.00	Unpaid Rent, November 2020
\$1,500.00	Unpaid Rent, December 2020
\$100.00	Filing Fee

The landlord stated that the property was sold to a new owner on December 4, 2020. The landlord claims that the tenant failed to pay rent for November and December of 2020. The landlord stated that December 2020 rent was assumed to have been collected by the old landlord instead of the new landlord based upon the December 4, 2020 sale completion date and as such the purchase adjustment took this into account. The landlord stated that the original security deposit was turned over to the new landlord as part of the purchase agreement. The landlord referenced a text message labelled, "Screenshot_2021-01-01_at_10_12_PM" in which the tenant confirms that rent was not paid. It states in part,

Yes I couldn't get it loaned to me and as I just mived back to Canada I have no established credit so my bank is holding my trident seafoods check for \$3200 for ten business days as its so large..im really sorry I dint anticipate this im very embarrasses as iv never been late on rent in my adult life, as soon as I am able to send it to you I will but this is a very difficult time for me lately and there is nothing more I can do. I have both my motorcycles and my car up for sale and if something sells sooner I will msg you...I am sobvery sorry for the delay but know you will get every cent
[reproduced as written]

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the tenant failed to pay monthly rent of \$1,500.00 for each month of November and December 2020. I also find based upon the undisputed evidence of the landlord that the tenant did not pay any of the rent to the new owner. On this basis, I find that the landlord has established a claim for unpaid rent of \$3,000.00.

The landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted a monetary order for \$3,100.00.

This order must be served upon the tenant. Should the tenant fail to comply with this order, the 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: May 10, 2021

Residential Tenancy Branch