



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Woodbridge NW (Lynnmour) Homes
Ltd. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL, FFL

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for unpaid rent, pursuant to section 26; and
- an authorization to recover the filing fee for this application, under section 72.

Both parties attended the hearing. The landlord was represented by agent KH. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing both parties affirmed they understand it is prohibited to record this hearing.

As both parties were present service was confirmed. The parties each confirmed receipt of the application and evidence (the materials). Based on the testimonies I find that each party was served with the respective materials in accordance with sections 88 and 89 of the Act.

Issues to be Decided

Is the landlord entitled to:

1. a monetary order for unpaid rent?
2. an authorization to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to the evidence and the testimony of the attending parties, not all details of the submission and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below. I explained rule 7.4 to the attending parties; it is the landlord's obligation to present the evidence to substantiate the application.

The landlord affirmed the tenancy started on October 01, 2019. The tenants stated the tenancy started on November 15, 2018. Both parties agreed monthly rent was \$1,575.00, due on the first day of the month. The tenancy ended on April 10, 2020. At the outset of the tenancy a security deposit of \$787.50 was collected by the landlord. The tenancy agreement was submitted into evidence. It indicates the parties entered into a fixed term tenancy from October 01, 2019 to April 30, 2020 and the tenants will move out at the end of the fixed term tenancy. The parties signed a mutual agreement to end tenancy on May 19, 2019 indicating the tenancy will end on April 30, 2020.

The landlord confirmed he received the tenants' written notice to end tenancy on March 30, 2020. The notice states:

[Tenant] will be terminating our rental contract April 11th as we agreed instead of April 30th, due to COVID-19 and being laid off as discussed via email. [...] To cover the half a months rent we agree to forfeit the deposit we paid of \$787.50 (1575/2). No rent charges will occur from April 1st-11th as you will be keeping the half months rent deposit.

The landlord is claiming for the balance of April 2020 rent in the amount of \$787.50. The landlord testified he did not authorize the tenants to not pay April 2020 rent. The tenants said they do not agree to pay the balance of April 2020 rent because they moved out early.

The landlord submitted into evidence a monetary order worksheet. The total amount the landlord is claiming is \$787.50.

Analysis

Based on the tenancy agreement and the mutual agreement to end tenancy, I find the tenancy was for a fixed term ending on April 30, 2020.

I accepted both parties' uncontested testimony and the notice to end tenancy that the tenants authorized the landlord in writing to retain the security deposit on March 30, 2020, per section 38(4) of the Act.

Section 26 of the Act requires that a tenant pay rent when it is due under the tenancy agreement:

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.

Based on both parties' uncontested testimony and the tenancy agreement, I find the tenants are required to pay monthly rent of \$1,575.00 and the tenants did not pay the balance of April 2020 rent in the amount of \$787.50.

Thus, pursuant to section 26 of the Act, I order the tenants to pay the landlord \$787.50.

As the landlord was successful in this application, the landlord is entitled to recover the \$100.00 filing fee.

In summary, the landlord is awarded \$887.50.

Conclusion

Pursuant to sections 26 and 72 of the Act, I grant the landlord a monetary order in the amount of \$887.50.

The landlord is provided with this order in the above terms and the tenants must be served with this order in accordance with the Act. Should the tenants 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: May 26, 2021

Residential Tenancy Branch