



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 pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- and a monetary order for unpaid rent, or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:43 p.m. in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package ('Application') and evidence on December 30, 2020 by way of registered mail. The landlord provided the tracking numbers in the hearing. In accordance with sections 88, 89, and 90 of the *Act*, I find that the tenants deemed served with the landlord's application and evidence on January 4, 2021, 5 days after mailing. The tenants did not submit any written evidence for this hearing.

Although the landlord had applied for a monetary Order of \$3,400.00 in their initial claim, since they applied another \$2,500.00 in rent has become owing that was not included in the original application. RTB Rules of Procedure 4.2 allows for amendments to be made in circumstances where the amendment can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for

Dispute Resolution was made. On this basis, I have accepted the landlord's request to amend their original application from \$3,400.00 to \$5,900.00 to reflect the unpaid rent that became owing by the time this hearing was convened.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent or money owed?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on April 1, 2019, and ended on February 3, 2021 after the landlord was granted an Order of Possession after a previous hearing was held on January 11, 2021. Monthly rent was set at \$2,500.00, payable on the first of the every month. The landlord collected as security deposit in the amount of \$1,250.00 and a pet damage deposit in the amount of \$500.00, which the landlord still holds.

The landlord testified that the tenants had originally owed \$3,400.00 in unpaid rent at the time this application was filed, and the tenants failed to pay any rent for the month of January 2021. The landlord is seeking a monetary order for unpaid rent in the amount of \$5,900.00 for this tenancy as well as recovery of the filing fee this application.

Analysis

Section 26 of the Act, in part, states as follows:

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.

Based on the undisputed testimony and evidence before me, I find that the tenants failed to pay the outstanding rent for this tenancy in the amount of \$5,900.00. Accordingly, I allow this portion of the landlord's monetary claim.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' deposits in partial satisfaction of the landlord's monetary awards.

Conclusion

I issue a Monetary Order in the amount of \$4,250.00 in the landlord's favour under the following terms for recovery of the unpaid rent as well as the filing fee.

Item	Amount
Unpaid Rent	\$5,900.00
Filing Fee	100.00
Less Security and Pet Damage Deposit Held	-1,750.00
Total Monetary Order	\$4,250.00

The landlord is provided with this Order in the above terms and the tenants must be served with a copy of this Order as soon as possible. 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 25, 2021

Residential Tenancy Branch