



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes 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 February 12, 2021. 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.

Two Agents for the Landlord (the "Landlord") and both the Tenants (the "Tenants") attended the hearing and were each affirmed to be truthful in their testimony. The Tenants 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

The tenancy agreement shows that the tenancy began on September 1, 2020, as a one-year fixed term tenancy that rolled into a month-to-month tenancy at the end of the initial fixed term. That rent in the amount of \$1,600.00 was to be paid by the first day of each month and that the Landlord had collected an \$800.00 security deposit at the

outset of this tenancy. A copy of the tenancy agreement was submitted into documentary evidence.

The Landlords testified that the Tenants advised them on January 27, 2021, that they would be moving out, ending their tenancy as of February 1, 2021. The Landlord is requesting a monetary order in the amount of \$800.00 for the partial recovery of their lost rental income for February 2021, caused by the short notice given by the Tenants to end this tenancy.

The Tenant agreed that they gave the Landlord short notice to end their tenancy and that they owe the Landlord the requested half a month rent, in the amount of \$800.00.

Analysis

Based on the evidence before me, the testimony of these parties, and on a balance of probabilities that:

Section 45(2)(b) of the *Act* states that a tenant cannot end a tenancy agreement earlier than the date specified in the tenancy agreement.

Tenant's notice

45(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I find that the tenancy could not have ended in accordance with the *Act* until August 31, 2021. I find that the Tenants failed to comply with the *Act* when they ended their tenancy early and moved out of the rental unit as of February 1, 2021.

I accept the Landlord's testimony that they attempted to rent the unit as soon as possible after they received the Tenants' notice to end tenancy but that they were not able to find a new renter for the rental unit until March 2021. I also accept that the Landlord suffered a loss of rental income for the month of February 2021. Therefore, I

find the Landlord has established an entitlement for the recovery of their requested loss of rental income for February 2021, in the amount of **\$800.00**. I grant the Landlord permission to keep the security deposit for this tenancy in full 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 Landlord a monetary order of \$100.00, consisting of \$800.00 in lost rental income, \$100.00 in the recovery of the filing fee for this hearing, less the \$800.00 security deposit they are holding for this tenancy.

Conclusion

I find for the Landlord under sections 65 and 72 of the *Act*. I grant the Landlord a **Monetary Order** in the amount of **\$100.00**. The Landlord is provided with this Order in the above terms, and the Tenants must be served with 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: June 28, 2021

Residential Tenancy Branch