



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR

Introduction

On March 2, 2021, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking a monetary order for unpaid rent.

The matter was set for a conference call hearing. The Landlord and Tenant attended the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. They were provided with the opportunity to present affirmed oral testimony and to make submissions during 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.

Issue to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord and Tenant testified that the tenancy began in April 2017 as a one-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$1,500.00 was due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$750.00.

Unpaid Rent

The Landlord testified that the Tenant did not pay the rent owing under the tenancy agreement for the month of March 2021.

The Landlord stated that the Tenant gave written notice to end tenancy indicating he was moving out on March 12, 2021. The Landlord informed the Tenant that he could move out whenever he wanted; however, the full rent owing under the tenancy agreement must be paid for March 2021. The Landlord testified that the Tenant told him to apply the security deposit of \$750.00 towards the rent. The Landlord stated that he was not in agreement to accept the security deposit towards the rent.

The Landlord testified that he did not re-rent the unit to anyone else for the month of March 2021 and he received no rent for the unit.

The Landlord is seeking a monetary order in the amount of \$1,500.00 for unpaid March 2021 rent.

In reply, the Tenant testified that he notified the Landlord in writing that he would be moving out of the rental unit on March 13, 2021. The Tenant stated that the Landlord was told to use the security deposit of \$750.00 towards the first two weeks of rent owing. The Tenant stated that he believed he had the right to move out mid month and only pay half a months rent. He testified that he did not pay the rent owing for March 2021.

The Landlord confirmed that he is not applying to keep the \$750.00 security deposit towards his claim for \$1,500.00.

Analysis

Section 26 of the Act provides that 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.

The Residential Tenancy Branch Policy Guideline #3 Claims for Rent and Damages for Loss of Rent provides:

The damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a general rule this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy.

After considering the evidence of the Landlord and Tenant, and on balance of probabilities, I make the following findings:

I find that the tenancy was on a month to month basis with rent to be paid by the first day of each month. I find that in accordance with section 45(1)(b) of the Act the earliest date that the Tenant could have legally ended the tenancy was March 30, 2021.

I find that the Landlord is not obligated to accept the security deposit towards rent. I find that the Tenant failed to pay the Landlord the rent owing under the tenancy agreement for the month of March 2021.

I grant the Landlord a monetary order in the amount of \$1,500.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Landlord established that the Tenant failed to pay the rent owing under the tenancy agreement for the month of March 2021.

The Landlord is granted a monetary order in the amount of \$1,500.00.

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: July 19, 2021

Residential Tenancy Branch