



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S MNDCL-S FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for authorization to retain all or part of the tenant's security deposit towards any amount owing, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated April 13, 2021 (Notice of Hearing), application and documentary evidence were considered. The landlord testified that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on April 16, 2021. A registered mail tracking number receipt was submitted in evidence and the tracking number has been referenced on the style of cause for ease of reference and has been identified as 1. According to the online registered mail tracking website the registered mail package was delivered on April 22, 2021. Based on the undisputed evidence before me, I find the tenant was sufficiently served under the Act as of April 22, 2021, which is the date the registered mail package was delivered. Given the above, the hearing continued without the tenant present in accordance with Rule 7.1 and Rule 7.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules), which address consequences for not attending a dispute resolution hearing.

Preliminary and Procedural Matters

The landlord was informed at the start of the hearing that recording of the dispute resolution is prohibited under the RTB Rule 6.11. The landlord was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the landlord was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The landlord did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. For the tenant, the decision will be sent by regular mail as the landlord did not have an email address for the tenant.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

The landlord confirmed there was no written tenancy agreement, which I will deal with later in this decision. The landlord stated that a verbal tenancy began in September 2020 and that the parties agreed that monthly rent was \$1,200.00 per month and due on the first day of each month. The landlord confirmed that the tenant paid a security deposit of \$600.00 at the start of the tenancy, which the landlord continues to hold.

The landlord clarified that even though they had listed \$2,500.00 as their monetary claim on their application, they are only seeking loss of March 2021 rent in the amount of \$1,200.00 plus the \$100.00 filing fee. The landlord is also seeking to offset any amount owing with the tenant's security deposit.

The landlord testified that the tenant moved out on February 28, 2021 without serving the landlord with a proper written 1 Month Notice. The landlord stated that on February 22, 2021, the tenant called the landlord and advised the landlord that they were moving. The landlord is seeking loss of March 2021 rent due to the tenant failing to end the tenancy in an approved method under the Act.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's application is fully successful in the amount of **\$1,300.00**, which includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100.00 as the landlord's application is successful. I have considered the undisputed testimony of the landlord and that the application was unopposed by the tenant. The landlord continues to hold the tenant's security deposit of \$600.00, which has not accrued any interest to date.

I find the tenant breached section 45(1) of the Act which applies and states:

Tenant's notice

45(1) A tenant may end a periodic 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, and

(b) 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.

[Emphasis added]

Therefore, I find the landlord has met the burden of proof and find the tenant owes the landlord loss of rent for March 2021 in the amount of \$1,200.00 plus the filing fee. I authorize the landlord to retain the tenant's full security deposit of \$600.00 including \$0.00 in interest, in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the balance owing of **\$700.00**.

Conclusion

The landlord's application is fully successful.

The landlord has been authorized to retain the tenant's full security deposit of \$600.00 in partial satisfaction of the landlord's \$1,300.00 monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of \$700.00. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

The tenant can be liable for all costs related to enforcing the monetary order.

This decision will be emailed to the landlord and sent by regular mail to the tenant.

The monetary order will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 8, 2021

Residential Tenancy Branch