



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This matter proceeded by way of an ex parte Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the Act) and dealt with an Application for Dispute Resolution by the Landlord to obtain an order of possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

On August 10, 2021, the Adjudicator considered the landlord's application and found it appropriate to adjourn the matter to a participatory hearing. The interim decision should be read in conjunction with this Decision.

Only the landlord appeared. The tenants did not appear.

The landlord stated that they complied with the interim decision and served the required documents by registered mail., on August 13, 2021. The landlord provided Canada post tracking numbers for each of the respondents, which were returned unclaimed. I find the tenants were deemed served on August 18, 2021.

The landlord stated that the tenants abandoned the rental unit, and as of September 1, 2021, they have the rental unit in their possession, and they do not need an order of possession.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on November 1, 2020. Rent in the amount of \$520.00 was payable on the first of each month. The tenants paid a security deposit of \$500.00.

The landlord testified that the tenants owe rent for in the total amount of \$2,380.00. The landlord stated that the tenant did some work for them and that amount should be reduced to \$2,280.00.

The landlord testified rent was paid as follows: February 2021, the tenants paid \$220.00 leaving a balance due of \$300.00. No rent was paid for March, April, May, June, July, and August 2021. The landlord stated they did receive on April 30, 2021 the amount of \$520.00.

The landlord testified that they believe the tenants are developing a pattern for not paying rent, as they heard that they have failed to pay rent at their new location.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation, or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

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.*

...

(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

...

I accept the undisputed testimony of the landlord that the tenants have failed to pay rent as stated above. I find the tenants have breached section 26 of the Act. I find the landlord is entitled to recover unpaid rent in the total amount of **\$2,280.00**.

I find that the landlord has established a total monetary claim of **\$2,380.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$500.00** in partial satisfaction of the claim and I grant the landlord(s) an order under section 67 of the Act for the balance due of **\$1,880.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

I also caution the tenants that if a pattern of unpaid rent is established, they will be referred the Compliance and Enforcement Unit, for investigation and administrative penalties could be applied, as well as other legal action taken.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: November 22, 2021

Residential Tenancy Branch