



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNRL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for:

- a monetary order for unpaid rent and utilities or money owed pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlord attended the hearing by way of conference call, the tenants did not. I waited until 1:40 p.m. to enable the tenant to participate in this scheduled hearing for 1:30 p.m. The landlord was given a full opportunity to be heard, to present affirmed 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 one who had called into this teleconference.

The landlord testified that the tenants were served with the landlords' application for dispute resolution hearing package and evidence on September 9, 2021 by way of registered mail to the tenants' forwarding address. The landlord testified that a copy was also placed in the tenants' mailbox. The landlord provided a Canada Post tracking number during 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 September 14, 2021, five days after its registered mailing.

Issue(s) to be Decided

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

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

Background and Evidence

The landlord testified regarding the following facts. This month-to-month tenancy began on June 1, 2021, with monthly rent set at \$1,100.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$550.00, and a pet damage deposit of \$330.00, which the landlord still holds.

The tenants were served with a 10 Day Notice on August 4, 2021 for failing to pay the August 2021 rent. The landlord testified that the tenants moved out on August 12, 2021 without paying the August 2021 rent. The landlord testified that the tenants did not inform the landlord of the move-out until August 6, 2021. The landlord is seeking a monetary order for the August 2021 rent, as well as recovery of the filing fee and \$20.00 for the registered mailing of the landlord's dispute resolution package.

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.*

The landlord provided undisputed evidence that the tenants moved out on August 12, 2021 without paying rent for the month of August 2021. I allow the landlord's monetary claim for August 2021 rent in the amount of \$1,100.00.

As the landlord's application had merit, I allow the landlord to recover the filing fee.

Section 72 of the Act does not allow an applicant to recover the costs associated with the filing of their application other than the filing fee. Accordingly, I dismiss the landlord's application to recover the cost of registered mail.

The landlord continues to hold the tenants' security and pet damage deposits totalling \$850.00. 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 monetary awards.

Conclusion

I issue a \$350.00 Monetary Order in favour of the landlord under the following terms:

Item	Amount
Unpaid Rent for August 2021	\$1,100.00
Less deposits held	-850.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order	\$350.00

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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: March 09, 2022

Residential Tenancy Branch