



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Jacky & Ruki Property Services
Corp. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on September 14, 2021 seeking an order to recover the money for unpaid rent, and the filing fee for the Application. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on April 28, 2022. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The Landlord attended the telephone conference all hearing; the Tenant did not attend.

Preliminary Matter – notification to Respondent

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with this Notice of Dispute Resolution Proceeding. This means the Landlord must provide proof that they served the document at a verified address allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing the Landlord stated that they sent registered mail to the Tenant. They provided an image of the envelope they used and the receipt/label for that registered mail, dated September 24, 2022. This was to the address the Tenant provided them previously for mail forwarding. The Tenant provided that forwarding mail address around late July 2021, when they asked the Tenant where they should forward leftover mail to, after the Tenant moved out. In that message the Tenant also asked for return of their post-dated cheques to be returned through the mail.

I accept the Landlord's evidence that they sent the package to the Tenant via registered mail. This is what the *Act* requires. Based on the submissions of the Landlord, I accept they served notice of this hearing and their evidence in a manner complying with s. 89(1)(c) of the *Act*, and the hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order for recovery of rent, pursuant to s. 67 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord explained the agreement in place between the parties, and provided a copy of each of the original agreement and the revised tenancy agreement. The Tenant paid a security deposit of \$1,900 at the very start of the tenancy, and the Landlord retained this amount after the tenancy ended when they made their Application.

The original agreement was in place from August 5, 2018 through to July 31, 2020. After a few months into the tenancy after moving in, payments started to become delayed, and then in January 2019 the Tenant complained about high utility bills, calling the Landlord many times. They withheld the January 2019 rent; however, they paid the following month. Then in March 2019, the Tenant explained their financial situation and asked for a rent reduction. The Landlord agreed to reduce the rent from the initial \$3,800 to \$3,600.

The second revised agreement shows the rent amount of \$3,600. The Tenant paid this amount from April 2019 through to March 2020. From April 2020 the Tenant's financial situation, as they explained to the Landlord, became worse. The Landlord asked how much they could pay for rent, the Tenant agreed to \$2,800 for a four-month period, and then after that time they added one more month at that rental rate. From September 2020 through to the end of the tenancy, the Tenant paid \$3,000 per month.

The tenancy ended July 31, 2021. The Landlord requested the renewed agreed-upon rental rate of \$2,600. The Tenant could not agree to this, and so the Landlord initiated the end of the tenancy. The Tenant moved out in mid-July.

The Landlord provided their amount total as shown on the worksheet they completed on September 13, 2021, provided in the evidence. The amount of \$7,600 is for two months total of rent at \$3,800, January 2019 and March 2019. From this amount, the Landlord subtracted repair amounts owing to the Tenant for agreed-upon repairs to the rental unit. Those repair amounts total \$2,105.25. The Landlord provided receipts given to them by the Tenant for all that completed work. The Tenant did not present these receipts for a long time to the Landlord, so the Landlord did not actually know the amount in question.

The total amount of the Landlord's claim, after making the reduction, is \$5,494.75.

The Landlord also provided the monthly rental amount deposits shown in a bank statement from August 7, 2018, to July 30, 2021. Missing are rent payments for January 2019 and March 2019. This time period was when the rent amount was still \$3,800 immediately prior to it being reduced to \$3,600.

Adding a \$100 Application filing fee for this hearing, the total amount of the landlord's claim is \$5,594.75.

Analysis

The *Act* s. 26 requires a tenant to pay rent when it is due under the tenancy agreement whether or not the Landlord complies with the *Act*, the regulations or the tenancy agreement, unless a tenant has the right under the *Act* to deduct all or a portion of the rent.

For the rent amounts owing, I find the Landlord has verified the amount in question and provided proof that the amount owing is in relation to the tenancy. As a result, I find the amount of \$5,494.75 satisfies the Landlord's claim for rent owing; I so award this amount to the Landlord via monetary order.

The landlord has properly made a claim against the security deposit and have the right to do so. The landlord is holding this amount of \$1,900. I order this amount deducted

from the total of the rent owing. Reducing the total by \$1,900 brings the total monetary order to \$3,594.75.

Because the landlord was successful in their Application, I grant the reimbursement of the \$100 Application filing fee.

Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$3,694.75 for compensation set out above and the recovery of the filing fee for this hearing application. The Landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, the Landlord may file this Order in the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: April 29, 2022

Residential Tenancy Branch