



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL MNDCL-S MNRL-S OPR

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- Authorization to recover the filing fees from the tenant pursuant to section 72;
- A monetary order for compensation or other money owed pursuant to section 67;
- A monetary order for unpaid rent pursuant to section; and
- An order of possession for unpaid rent pursuant to sections 46 and 55.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant confirmed receipt of the landlord's 10-Day Notice, the application for dispute resolution and evidence. The tenant did not provide any evidence. Based on the testimonies I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

While I have turned my mind to all the documentary evidence, not all details of the respective submissions and / or arguments of the parties are reproduced here. The principal aspects of each of the parties' respective positions have been recorded and will be addressed in this decision.

Preliminary Issues

The landlord testified the tenant moved out of the rental unit on March 31, 2019 in accordance with the 10 Day Notice to End Tenancy for Unpaid Rent that was served upon her. She no longer seeks an order of possession for unpaid rent pursuant to sections 46 and 55. Pursuant to section 62(4), that portion of the landlord's application is dismissed as it does not disclose a dispute that may be determined under Part 5 of the *Act*.

The landlord advised she is only seeking compensation for unpaid rent for the month of March, 2019 from the tenant. She is not seeking compensation for any other losses. In

accordance with Rule 6.2 of the Rules of Procedure, this portion of the landlord's claim is dismissed.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent for the month of March 2019 and entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided the following testimony. The rental unit is a double-wide modular home located on the landlord's property. The landlord's house and the rental unit sit on the same property.

There was no tenancy agreement signed between the parties. The tenant moved into the rental unit at the end of July 2018 and rent was set at \$600.00 per month payable on the first day of each month. It is unknown as to whether a security deposit was taken at the commencement of the tenancy. Rent for the month of August 2018 was waived as the tenant agreed to do some cleaning and painting of the rental unit. The tenant paid rent on the first day of each month up until February 2019 by cheque.

On March 1, 2019 the tenant came to the landlord's house and the landlord asked if she was there to pay rent. The landlord was not feeling well at the time. The tenant advised she had the money in the bank and would come back to pay. Later, the tenant texted her she would leave it in the landlord's truck. The tenant never provided the landlord with a cheque for March rent, leading the landlord to issue a 10 Day Notice to End Tenancy for Unpaid Rent ("Notice"). The landlord agreed to the tenant's request to change the effective (move-out) date to March 31st to assist the tenant in finding a new accommodation. Rent for the month of March in the amount of \$600.00 remains unpaid.

The tenant testified she didn't want to catch the landlord's illness and that is why she advised the landlord she would put the cheque in the truck. When she went back to the landlord's house to put the cheque in the truck, she thought maybe it was locked so she put the cheque in a bag and tied it the landlord's doorknob. When she got the Notice, she went back to the landlord's house and searched for the cheque but could not find it. She offered to pay cash or replace the cheque but it was refused by the landlord. She acknowledges she moved out on March 31, 2019 and did not pay rent for the month of March.

Analysis

Section 26 of the *Act* is clear, 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.

Based on the testimonies of the parties I find the tenant did not have any right to deduct all or a portion of the rent and failed to pay rent in the amount of \$600.00 for the month of March, contrary to section 26.

Section 67 of the *Act* states if damage or loss results from a party not complying with this *Act*, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party. In accordance with section 67, the landlord is entitled to a monetary award in the sum of \$600.00.

As the landlord's application was successful, the landlord is entitled to recover the \$100.00 filing fee for the cost of this application.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$700.00** comprising \$600.00 rent owed and the \$100.00 fee paid by the landlord for this application.

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: May 09, 2019

Residential Tenancy Branch