



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

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

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence.

The landlord was advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on May 29, 2021. I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the tenant was properly served as per sections 88 and 89 of the Act. Despite not attending the tenant is deemed served as per section 90 of the Act.

During the hearing the landlord clarified that there was an error on his paper application. The landlord stated that he only seeks a total monetary claim of \$1,950.00 which consists of unpaid rent of \$1,850.00 and recovery of the \$100.00 filing fee. I find that there is no prejudice to the tenant in lowering the monetary claim and as such the landlord's application is amended for a total of \$1,950.00 instead of the filed \$2,050.00.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord seeks an amended monetary claim of \$1,950.00 which consists of:

\$1,850.00	Unpaid Rent, May 2021
\$100.00	Filing Fee

The landlord claims that on May 1, 2021 the tenant gave notice to end the tenancy and then moved out of the rental unit on May 2, 2021. The landlord claims that he was unable to re-rent the unit and suffered a loss of rent for May 2021 for \$1,850.00.

The landlord seeks to offset the claim against a \$925.00 security deposit currently held by the landlord.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I accept the undisputed affirmed evidence of the landlord that the tenant gave notice to end the tenancy on May 1, 2021 and moved out on May 2, 2021. I also accept the undisputed evidence of the landlord that he was unable to re-rent the unit to prevent a loss of rent for May 2021 of \$1,850.00. On this basis, I find on a balance of

probabilities that the landlord has established a claim for unpaid rent of \$1,850.00 for May 2021.

The landlord is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$925.00 security deposit in partial satisfaction of the claim.

Conclusion

The landlord is granted a monetary order for \$1,025.00.

This order must be served upon the tenant. Should the tenant fail to comply with this order, the 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: November 22, 2021

Residential Tenancy Branch