



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Centra LLP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. The landlord applied on May 14, 2022 for:

- a monetary order for unpaid rent, requesting to retain the security and/or pet damage deposits;
- a monetary order for damage caused during the tenancy, requesting to retain the security and/or pet damage deposits; and
- the filing fee.

The landlord, her spouse, and her counsel attended the hearing, but the tenants did not. Those present were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings. In the decision I will refer to the landlord and her counsel collectively as “the landlord.”

The landlord testified the tenants vacated the rental unit on April 30, 2022.

The landlord testified they served each of the tenants with the Notice of Hearing and evidence on May 28, 2022 by registered mail to the forwarding address provided by the tenants, and submitted the tracking numbers as noted on the cover page of the decision. Based on the landlord’s undisputed testimony, I find the dispute resolution proceeding package served on the tenants in accordance with section 89 of the Act, and therefore deemed received on June 2, 2022, pursuant to section 90 of the Act.

Preliminary Matter

The landlord's application for damages states they are seeking \$15,391.75. However, the submitted monetary order worksheet indicates the landlord is seeking a greater amount. The landlord's application has not been amended, and the landlord testified that the monetary order worksheet noting the increased amount sought was not served on the tenant. Considering section 59(2)(b) of the Act, which states that an application for dispute resolution must include full particulars of the dispute, and Rule 6.2, I advised the landlord I would hear on the original claim amount, or the landlord may withdraw their damages claim and reapply for the increased amount.

The landlord elected to withdraw her damages claim. The remainder of the decision will contemplate the landlord's application to recover unpaid rent and the filing fee.

Issues to be Decided

- 1) Is the landlord entitled to a monetary order for unpaid rent?
- 2) Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord provided the following particulars on the tenancy. It began December 1, 2019 and ended April 30, 2022; rent was \$2,500.00, due on the first of the month; and the tenants paid a security deposit of \$1,250.00 and a pet damage deposit of \$1,250.00, which the landlord still holds in trust.

Submitted as evidence is a copy of the signed tenancy agreement; it confirms rent was \$2,500.00.

The landlord submitted that the tenants did not pay the rent of \$2,500.00 for April 2022. The landlord's application states she is seeking \$2,587.00, as the tenancy agreement provides that late rent is subject to a fee of \$3.00 a day. The late charge is stated at part (d) of the signed addendum to the tenancy agreement.

Analysis

The landlord has applied to recover unpaid rent of \$2,500.00 for April 2022, \$87.00 in late fees, and the \$100.00 filing fee.

The tenant did not appear at the hearing, and there is no evidence before me that the tenant had a legal right to withhold payment of rent.

Section 67 of the Act and [Policy Guideline 16](#) provide that if damage or loss results from a party not complying with the 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 this case, the onus is on the landlord to prove entitlement to a claim for a monetary award.

I accept the landlord's undisputed testimony that the tenant did not pay rent as described, totalling \$2,500.00. I found the landlord's testimony to be consistent with her application.

Section 7 of the Residential Tenancy Regulation (the Regulation) provides that a landlord may charge not more than \$25.00 for late payment of rent if the tenancy agreement provides for the fee. As the addendum to the tenancy agreement provides for a late rent fee which exceeds the amount permitted by the Regulation, I find the landlord is entitled to a \$25.00 late charge for April 2022.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the landlord is successful in her application, I order the tenant to pay the \$100.00 filing fee the landlord paid to apply for dispute resolution.

I find the tenant owes the landlord an amount of \$2,625.00. This amount is the total of \$2,500.00 for unpaid rent, \$25.00 for late payment, and \$100.00 for the filing fee.

Using the offsetting provisions contained in section 72 of the Act, I allow the landlord to retain the tenant's security deposit and pet damage deposit in partial satisfaction of the amount owed.

Conclusion

I grant the landlord a monetary order for \$125.00, the remaining amount owed by the tenant to the landlord, as follows:

| Item | Amount |
|--|-----------------|
| Unpaid rent for April 2022 | \$2,500.00 |
| Late fee | 25.00 |
| Less security deposit and pet damage deposit | (-2,500.00) |
| Filing fee | 100.00 |
| Total | \$125.00 |

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: February 17, 2023

Residential Tenancy Branch