

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

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

- a monetary order for unpaid rent and utilities pursuant to section 67;
- authorization to retain the tenants' security deposit to partially offset the amount of the monetary order pursuant to section 38; and
- recovery of the filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing, were given an opportunity to be heard, to present evidence and to make submissions. The parties agreed that the landlord served the tenants with the application for dispute resolution package by way of a May 26, 2010 registered letter. The parties agreed that the tenants had received the landlord's evidence package for this hearing. I am satisfied that the landlords served the tenants with these documents in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities? Is the landlord entitled to retain the tenants' security deposit in partial recovery of the monetary order? Is the landlord entitled to recover the costs of filing this application?

Background and Evidence

The landlord testified that the tenants commenced leasing the rental premises by way of a one-year fixed term tenancy agreement on October 1, 2008. After the expiration of

the fixed term, the tenants continued living at the rental premises on a month-to-month basis. They were to pay \$1,050.00 in rent on the first of each month. The landlord testified that she continued to hold the tenants' \$545.00 security deposit plus interest.

The parties agreed that the tenants vacated the rental premises without providing formal notice to end their tenancy on or about December 4, 2009. The landlord testified that she was not aware that the tenants intended to end their tenancy until she received notice from her bank that the tenants had stopped payment on their December 1, 2009 rent cheque. The landlord testified that she was able to contact the tenants and they confirmed that they had vacated the property. The landlord asked for unpaid rent and utilities as set out below for December 2009 and January 2010 due to the tenants' failure to provide 30 days notice before their December rent became due.

Item	Amount
Unpaid December 2009 Rent	\$1,050.00
Lost Rent for January 2010 Rent	1,050.00
NSF Cheque Fee	25.00
Unpaid Hydro and Water-September 2009	63.37
Unpaid Hydro and Water-October 2009	68.54
Unpaid Hydro and Water-November 2009	65.36
Unpaid Hydro and Water-December 2009	43.68
Unpaid Hydro and Water-January 2010	43.08
Gas Bill January 2010	106.16
Total Monetary Award	\$2,515.19

The landlord testified that the tenants were responsible for all of the hydro bill for the property and submitted the unpaid hydro bills from September 2009 until January 2010. The landlord said that the tenants were responsible for one-third of the water bill for the property. She provided receipts for the unpaid water bills from September 2009 until January 2010.

The landlord testified that the tenants were responsible for their own gas bill. When the tenants vacated the property without notice, she needed to establish a separate gas account for January 2010 to ensure that the property remained heated and was not

damaged. She requested reimbursement of the \$106.16 receipt that she presented from Terasen Gas for gas charges for the rental premises.

The landlord testified that the tenants had agreed to repay the amount owing by way of monthly payments of \$100.00. She said that she received one cheque from them for \$100.00 on February 1, 2010. She asked that her monetary award be reduced by that amount and by the amount of the retained security deposit plus interest. She also applied for recovery of her filing fee for this application.

Although the landlord's application indicated that she was limiting her application for a monetary order to unpaid rent and utilities, the landlord also included receipts for cleaning and replacement of blinds that she maintained resulted from the tenants' actions. As the landlord did not indicate that she was seeking a monetary order for damage or loss caused by the tenants in her application for dispute resolution, I have not considered these items as part of the landlord's application.

The tenants confirmed that they ended the tenancy without giving the landlord notice. They did not believe that they should be held responsible for the landlord's loss of rental for January 2010 when they vacated the premises by December 4, 2009. The female tenant said that she thought that she had paid the September 2009 hydro and water bill, but provided no evidence of having done so.

Analysis

I grant the landlord a monetary order for unpaid rent and utilities as requested by the landlord. I find that the tenants are responsible for the unpaid rental for December 2009 and all unpaid utility bills submitted by the landlord. I find that the tenants are responsible for the landlord's loss of rent for January 2010 because they did not give the landlord 30 day's notice before their January 1, 2010 rent became due. I allow the landlord's expenses regarding the \$106.16 gas bill as the landlord's actions at that time of year were necessary to ensure that pipes would not freeze if gas service were

terminated. I reduce the amount of the monetary order by \$100.00 to reflect the tenants' February 1, 2010 payment to the landlord and by the amount of the security deposit plus interest. As the landlord's application is successful, I allow the landlord to recover the filing fee for this application from the tenant.

I grant a monetary order in the following terms:

Item	Amount
Unpaid December 2009 Rent	\$1,050.00
Lost Rent for January 2010 Rent	1,050.00
NSF Cheque Fee	25.00
Unpaid Hydro and Water-September 2009	63.37
Unpaid Hydro and Water-October 2009	68.54
Unpaid Hydro and Water-November 2009	65.36
Unpaid Hydro and Water-December 2009	43.68
Unpaid Hydro and Water-January 2010	43.08
Gas Bill January 2010	106.16
Less February 1, 2010 Payment from Tenants	-100.00
Less Security Deposit Plus Interest (\$525.00 + \$2.56 = \$527.56)	-527.56
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$1,937.63

Conclusion

I grant the landlord a monetary order in the amount of \$1,937.63. This monetary order allows the landlord to retain the tenants' security deposit and the landlord's filing fee for this application.

The landlord is provided with an Order in the above terms and the tenant(s) must be served with a copy of 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*.