



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with a landlord's application for a Monetary Order for unpaid rent or utilities and other damages and losses related to drywall repairs. The tenant did not appear at the hearing. The landlord testified that she sent the hearing package and some of the evidence to the tenant via registered mail on March 21, 2016 and additional evidence was sent via registered mail on August 29, 2016. The landlord provided a copy of the registered mail receipts, including tracking numbers, as proof of service. The landlord testified that the address used for service was a forwarding address the tenant provided to the landlord at the end of the tenancy. I was satisfied the landlord served the tenant with notification of this proceeding in a manner that complies with the Act and I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Has the landlord established an entitlement to recover the amounts claimed for unpaid rent and utilities?
2. Has the landlord established an entitlement to recover other damages or loss under the Act?

Background and Evidence

The parties entered into a verbal tenancy agreement in September 2015 for a tenancy set to commence on October 1, 2015. The tenant paid a deposit of \$925.00 in September 2015. The tenant was required to pay monthly rent of \$1,850.00 on the first day of every month and 50% of the utilities for the property. The tenant vacated the rental unit at the end of December 2015.

In filing this application, the landlord provided a breakdown of the amounts claimed in the details of dispute section of the application. The landlord also prepared a Monetary Order worksheet. I noted that individual amounts appearing on the Monetary Order

worksheet did not add to the sum claimed and were different than amounts specified on the application. Since a Monetary Order worksheet is intended to support an application, for the remainder of this decision, I have only considered the amounts that appear on the application.

The landlord submitted that the tenant did not pay \$50.00 of the rent owed for November 2015 and paid no rent for December 2015. The landlord seeks to recover the unpaid rent after deducting the security deposit.

The landlord also submitted that the tenant did not pay for any utilities during the tenancy. For the months of October through December 2015 the landlord seeks to recover the total sum of \$422.54 for water, sewer, internet, hydro and natural gas.

In addition, the landlord submitted that the landlord compensated the tenant the equivalent of \$1,150.00 to repair drywall damage that was pre-existing at the start of the tenancy. The landlord submitted that the repair job was not satisfactory and she seeks to recover this compensation from the tenant.

Evidence provided for this proceeding included: photographs; utility bills; and several text or email exchanges between the parties.

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with their tenancy agreement. Section 1 of the Act defines a tenancy agreement to include those entered into orally. Based upon the unopposed evidence before me, I accept that the tenant was required to pay rent of \$1,850.00 on the first day of every month and failed to do so for the month of December 2015 and failed to pay \$50.00 of the rent for November 2015. Therefore, I award the landlord \$1,900.00 for unpaid rent.

Based upon the unopposed evidence before me, I accept that the tenant was required to 50% of utilities and he did not pay any utilities during the tenancy. Therefore, I grant the landlord's request to recover \$422.54 for the tenant's share of water, sewer, internet, hydro and natural gas for the months of October 2015 through December 2015.

I make no award with respect to the landlord's request to recover \$1,150.00 that she compensated the tenant to make drywall repairs. My authority to resolve disputes is limited to matters that fall under the Act and pertain to a tenancy agreement. My authority to resolve disputes does not extend to other types of contracts or agreements

such as a contract for services. A landlord and a tenant who enter into other agreements, such as a contract for services, must resolve their dispute in the appropriate forum, such as Small Claims court. Based upon what I heard, I am of the view that the agreement the parties reached with respect to drywall repairs amounted to a contract for services and is unrelated to a tenancy agreement or the Act. Accordingly, I decline to take jurisdiction to resolve this portion of the landlord's claim.

I authorize the landlord to retain the tenant's security deposit in partial satisfaction of the unpaid rent and utilities. Since the landlord's claim had merit, I award the landlord recovery of the \$100.00 filing fee.

In light of all of the above, I provide the landlord with a Monetary Order to serve and enforce upon the tenant, calculated as follows:

Unpaid Rent: November and December 2015	\$1,900.00
Unpaid Utilities: October 2015 – December 2015	422.54
Filing fee	100.00
Less: security deposit	<u>(925.00)</u>
Monetary Order	\$1,497.54

Conclusion

The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order in the amount of \$1,497.54 for the balance of unpaid rent and utilities.

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: October 27, 2016

Residential Tenancy Branch