



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

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

- a Monetary Order for unpaid rent and utilities pursuant to section 67;
- authorization to retain the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's application for dispute resolution dated May 25, 2017 was sent to the tenant by registered mail on May 31, 2017. The landlord provided a Canada Post tracking number as evidence of service. I find that the tenant was deemed served with the landlord's application for dispute resolution and evidence package in accordance with sections 88, 89 and 90 of the Act on June 5, 2017, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This fixed term tenancy began in September, 2016 and ended April 30, 2017. The monthly rent was \$1,650.00. The tenant is also responsible for paying for the municipal utilities. A security deposit of \$825.00 was paid by the tenant and is still held by the landlord.

The landlord testified that the tenant failed to pay the full rent for the month of April, 2017 and the rental arrear is \$825.00. In addition the tenant has failed to pay the utilities for the tenancy. The landlord submitted into written evidence copies of the utility bills showing the total amount owing to be \$873.16. The landlord testified that copies of the bills were provided to the tenant along with written demand that the tenant pay them.

The landlord also seeks a monetary award in the amount of \$12,95 for the cost of serving the tenant by registered mail.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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.

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$1,650.00. I accept the landlord's evidence that the tenant failed to pay the full rent and the rental arrear for this tenancy is \$825.00.

I accept the landlord's evidence that the tenant is responsible for paying the utilities for the tenancy and failed to do so. I accept the undisputed evidence that the total amount owing for utilities is \$873.16.

The cost of serving a party by registered mail is not a loss that is recoverable under the *Act*, consequently I dismiss the portion of the landlord's application seeking \$12.95 for the cost of serving the tenant.

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

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit of \$825.00 in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$973.16 under the following terms, which allows the landlords to recover unpaid rent, unpaid utilities and the filing fee for their application:

Item	Amount
Unpaid Rent April, 2017	\$825.00
Unpaid Utilities Sep-Jan	\$388.91
Unpaid Utilities Jan- April	\$484.25
Filing Fees	\$100.00
Less Security Deposit	-\$825.00
Total Monetary Order	\$973.16

The tenant must be served with this Order as soon as possible. Should the tenant 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*.

Dated: November 6, 2017

Residential Tenancy Branch