



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR FFL

Introduction

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

- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenants confirmed receipt of the landlord's application for dispute resolution hearing package ("Application") as well as the evidence package. In accordance with sections 88 and 89 of the *Act*, I find that the tenants were duly served with the Application and landlord's evidence. The tenants did not submit any written evidence for this hearing.

Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

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

Background and Evidence

This month-to-month tenancy began in December 2016 and ended on January 28, 2018 after both parties agreed to mutually end this tenancy during a previous hearing.

The landlord is seeking \$6,133.33 in unpaid rent for this tenancy, as set out in the table below. The landlord testified that the monthly rent was set at \$1,600.00 per month, payable on the first of the month. This monthly rent was reduced to \$800.00 per month

as of November 2017 as the tenants moved out of the home on the property to their own recreational vehicle parked on the property.

Item	Amount
Unpaid Rent for May 2017	\$533.33
Unpaid Rent for June 2017	1,600.00
Unpaid Rent for July 2017	1,600.00
Unpaid Rent for November 2017	800.00
Unpaid Rent for December 2017	800.00
Unpaid Rent for January 2018	800.00
Total Monetary Order	\$6,133.33

The tenants dispute the unpaid rent for May through to July 2017. The tenants testified that the May and June 2017 were paid in cash, which they received receipts for. The tenants did not submit any receipts for this hearing. The tenants testified that the July 2017 payment was compensated by the landlord as the power was cut to the home in April 2017 due to safety concerns by the utilities provider. The tenants testified that they utilized a generator provided by the landlord until August 2017, when they moved into their Recreational Vehicle on the property, and a new tenancy agreement was signed. The tenants testified that the agreement to compensate them was verbal, and they were not able to produce any written documents confirming this. The landlord disputes that any compensation was agreed to, or that any payments were made by the tenants for this period.

Analysis

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

There is disputed testimony as to whether the payments were received for May 2017 through to June 2017. The tenants testified that they had made payments in cash, and that they were given receipts for these payments. As the tenants did not provide proof that they had complied with section 26(1) of the Act, I find that the tenants failed to support their testimony that these payments were made. Accordingly I find the landlord is entitled to the unpaid rent for this period.

The tenants admit that the \$1,600.00 was not paid for July 2017 as they testified that the rent was not required as part of a verbal agreement between themselves and the landlord. The tenants were not able to provide witness statements, documents, or sufficient supporting evidence to support that July 2017 rent was not required. Accordingly, I find that the landlord is entitled to \$1,600.00 in outstanding rent for July 2017.

The tenants do not dispute that they had not paid rent for November 2017 through to January 2018, although they dispute the monthly rent owing. The tenants withdrew their application for a reduction in rent during the previous hearing, and the landlord testified that the tenants' water supply was never cut. I find that the tenants failed to provide sufficient evidence to support that rent was reduced to \$600.00 for this period. Accordingly, I find the landlord is entitled to the full monthly rent for this period.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee.

Conclusion

I issue a \$6,233.00 Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover unpaid rent plus the filing fee.

Item	Amount
Unpaid Rent for May 2017	\$533.33
Unpaid Rent for June 2017	1,600.00
Unpaid Rent for July 2017	1,600.00
Unpaid Rent for November 2017	800.00
Unpaid Rent for December 2017	800.00
Unpaid Rent for January 2018	800.00
Filing Fee	100.00
Total Monetary Order	\$6,233.33

The tenant(s) must be served with 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*.

Dated: April 6, 2018

Residential Tenancy Branch