



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC 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;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 9:55 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide testimony and present evidence.

The landlord testified that on December 4, 2018, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant C.H. by e-mail. The landlord was authorized to serve the tenant C.H. in this manner as per a substituted service decision dated November 30, 2018.

Based on the above evidence, I am satisfied that the tenant C.H. was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 71 of the Act. The hearing proceeded in the absence of the tenants. Any monetary order arising out of this application will be issued naming only tenant C.H. as liable as the other tenant has not been served.

Issues

Is the landlord entitled to a monetary award for unpaid rent, utilities and loss or damage to the rental unit?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

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

Background and Evidence

The rental unit is one half of a duplex. The tenancy began on January 18, 2018 with a monthly rent of \$1250.00 payable on the 1st day of each month. The tenancy agreement also required that the tenants pay 50% of the utilities. The tenants paid a security deposit of \$625.00 at the start of the tenancy which the landlord continues to hold. The tenancy ended on October 25, 2018.

The landlord is claiming outstanding rent for the months of September and October 2018 in the amount of \$2500.00. The landlord testified the tenants did not pay rent for these two months.

The landlord is claiming unpaid utilities in the amount of \$1275.00. The landlord testified that the tenants only paid an amount of \$1400.00 for utilities even though their share as per the tenancy agreement was \$2675.00 for the duration of the tenancy. The landlord submitted copies of the utilities bills and a detailed calculation of the amounts payable and paid by the tenants.

The landlord is claiming \$81.30 for removal of garbage left behind by the tenants. The landlord testified the tenants left 5 bags of garbage behind which had to be disposed of. An invoice was submitted for this expense. The landlord testified that he is only charging the tenants for 1/3 of this invoice as the disposal fee included some items of other tenants.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement. Under this section, the party claiming the damage or loss must do whatever is reasonable to minimize the damage or loss.

Section 26 of the Act requires that 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.

Section 37 of the Act requires that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

I accept the landlord's uncontested testimony and supporting evidence and find the landlord has suffered a loss as claimed in the amount of \$2500.00 for unpaid rent plus \$1275.00 for unpaid utilities.

I accept the landlord's uncontested testimony and supporting evidence and find the landlord has suffered a loss as claimed in the amount of \$81.30 for garbage disposal fees.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$3956.30.

The landlord continues to hold a security deposit and pet deposit in the amount of \$625.00. I allow the landlord to retain the security deposit and pet deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$3331.30.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$3331.30. 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: January 03, 2019

Residential Tenancy Branch