



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPU, MNRL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the Landlord's Application filed under the *Residential Tenancy Act*, (the "*Act*"), for an order of possession pursuant to section 46 of the *Act*, a monetary order for unpaid rent and utilities, and to recover the cost of filing the application from the Tenant. The matter was set for a conference call.

The Landlord attended the hearing and was affirmed to be truthful in his testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. The Landlord testified that the documents were sent by registered mail on March 13, 2019, a Canada post tracking number was provided as evidence of service. Section 90 of the *Act* determines that a document served in this manner is deemed to have been served five days later. I find that the Tenants have been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matter

At the outset of the hearing, the Landlord testified that there had been a previous hearing, in which he had been granted an order of possession for this rental unit.

The Landlord confirmed that he no longer require an order of possession for the rental.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent?
- Is the Landlord entitled to retain the security deposit?
- Is the Landlord entitled to recover the filing fee for this application?

Background and Evidence

The Landlord testified that the tenancy began on October 1, 2018. Rent in the amount of \$1,650.00 was to be paid by the first day of each month, and that the Tenants paid the Landlord an \$825.00 security at the outset of the tenancy.

The Landlord testified that he issued a 10-Day Notice to End Tenancy for Unpaid Rent and Utilities to the Tenants on February 1, 2019, by posting it to the front door of the rental unit.

The Landlord also testified that the rental property had sold and that the Tenants were still living in the rental unit as of the property ownership transfer date of April 15, 2019, but that he thinks the Tenants moved out on April 24, 2019.

The Landlord is claiming for \$7,100.00 in outstanding rent amount for December 2018, January, February, March and half and April 2019. The Landlord is also claiming for \$404.85 in outstanding gas utilities, for October, November, December 2018, January, February, and March 2019. The Landlord testified that he had not served the Tenants with a written demand to pay the utilities before issuing the 10-Day Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the undisputed testimony of the Landlord that the Tenants have not paid the rent for December 2018, or January, February, March and April 2019. I grant the Landlords an award of \$6,275.00, comprised of \$7,100.00 in outstanding rent, less the \$825.00 the Landlord is holding as a security deposit for this tenancy

I also accept the undisputed testimony of the Landlord that the Tenants have not paid the gas bill for this tenancy. However, as the Landlord has not issued a written demand

to the Tenants to pay the outstanding gas bill, I find that the Landlord's application for \$404.84 for non-payment of the utility to be premature. Therefore, I dismiss this portion of the Landlord's claim with leave to reapply.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has have been successful in his application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant the Landlord a **Monetary Order** in the amount of **\$6,375.00**. The Landlord is provided with this Order in the above terms, and the Tenants must be served with this Order as soon as possible. Should the Tenants 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 30, 2019

Residential Tenancy Branch