



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on May 27, 2019. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities.

The Landlord provided testimony at the hearing. The Tenants did not attend the hearing.

The Landlord testified that he sent a copy of the Notice of Hearing along with supporting documentary evidence to each of the Tenants on February 7, 2019, by registered mail. The Landlord provided a copy of the registered mailing receipt. I find the Tenants received this package on February 12, 2019, the fifth day after their registered mailing, pursuant to Section 90 of the *Act*.

The Landlord made a change to the monetary worksheet, prior to the hearing, to reflect the bailiff costs they incurred to remove the Tenants from the property. This was in addition to the rent they were already seeking. However, as stated in the hearing, the Landlord did not file an amendment with our office to formally add this item to the dispute resolution proceedings. Simply uploading a modified monetary worksheet is not sufficient to amend the claim. Accordingly, the Landlord's application to recover bailiff costs is dismissed, with leave.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The Landlord testified that monthly rent is \$2,000.00, and is due on the first of the month. The Landlord testified that they hold a security deposit in the amount of \$1,000.00.

The Landlord stated that the Tenants stopped paying rent in October of 2018, and did not move out until the beginning of March 2019. As such, they now owe 5 months' worth of rent (October, November, December, January, and February).

Analysis

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

Section 26 of the *Act* confirms that a Tenant must pay rent when it is due unless the Tenant has a right under the *Act* to deduct all or a portion of rent.

With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence from the Landlord's undisputed documentary evidence and testimony before me to demonstrate that the Tenants owe and have failed to pay \$10,000.00 in rent from the period of October 2018 until February 2019 (5 x \$2,000.00).

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was successful in this hearing, I also order the Tenants to repay the \$100.00 fee the Landlord paid to make the application for dispute resolution. Further, section 72 of the *Act* allow me to authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount of rent still owed by the Tenants. In summary, I grant the monetary order based on the following:

Claim	Amount
Unpaid rent: Oct 2018 – Feb 2019	\$10,000.00
Filing Fee	\$100.00
Less: Security Deposit currently held by Landlord	(\$1,000.00)
TOTAL:	\$9,100.00

Conclusion

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$9,100.00**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: May 27, 2019

Residential Tenancy Branch