



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL MNDCL-S**

Introduction

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

- Authorization to recover the filing fees from the tenant pursuant to section 72; and
- A monetary order for damages or compensation and authorization to retain a security deposit pursuant to sections 38 and 67.

Both the landlord and the tenant attended the hearing. The tenant acknowledged being served with the landlord's Application for Dispute Resolution and evidence and had no issues regarding timely service of document. I am satisfied the tenant has been served with the Application for Dispute Resolution in accordance with section 89 of the *Act*.

Preliminary Issue

Section 64(3) of the *Act* allows the director to amend an application for dispute resolution. The tenant objected to the landlord's spouse to be named as a landlord as she did not appear on the tenancy agreement. In accordance with section 64, the Application for Dispute Resolution was amended to remove the landlord's spouse as a landlord. The corrected parties' names are reflected on the cover page of this decision.

Issue(s) to be Decided

Is the landlord entitled to the orders sought?

Background and Evidence

A copy of the tenancy agreement was provided as evidence. This tenancy began on July 15, 2018. Rent in the amount of \$2,250.00 was to be paid on the first day of each month. A security deposit of \$1,125.00 was collected which the landlord continues to hold.

The parties agree on the following facts. The tenancy ended on May 1, 2019. The landlord acknowledges the rental unit was left in a clean state with no damage. The tenant's forwarding address was provided to the landlord on May 1, 2019 by text message and he filed an Application for Dispute Resolution on May 9, 2019.

The landlord testified that the tenant put the utility bills for the rental unit in her name at the beginning of the tenancy. On May 27, 2019 he received a 'final bill' from the city indicating an outstanding amount of \$713.31. The bill was in the name of the tenant. On May 10th, the landlord was advised payment was required by 2:00 p.m. on May 17th. The letter states

... if this is a rental property and a **tenant fails to pay these utility charges, then you as the property owner will be responsible for payment.**

...

If this is a rental property you may want to contact your tenant regarding the status of the account.

(bold font and underlines appeared on original document)

On June 13th, the city sent a bill directly to the landlord advising them that the account was closed on April 30th; the final payment due on May 27th remains unpaid; and that the amount is subject to transfer to property taxes in arrears for the property if it remains unpaid at December 31. The bill was revised to be put into the name of the landlord and his spouse, not the tenant. Copies of the bills from the city were provided as evidence by the landlord.

The landlord testified that since filing his Application for Dispute Resolution, the tenant has paid \$400.00 of the original utility bill, leaving \$313.31 owing.

The tenant provided the following testimony. She does not dispute the remainder of the utility bill however as the bill is still in her name, she still has the obligation to pay the city; it's not a debt owing to the landlord. The landlord is 'controlling' and she wants to be able to pay the arrears in installments directly to the city. Despite acknowledging she had previously sent an email to the landlords expressing her agreement to have the landlords take the remainder of the utility arrears from her security deposit, she no longer feels this should take place. She has good credit and pays her bills on time and not getting her security deposit back from the landlord led to difficulty in securing a new rental unit.

Analysis

The landlord seeks an order pursuant to section 67 of the *Act* which reads:

Director's orders: compensation for damage or loss

Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this *Act*, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

The purpose of compensation is to put the claimant who suffered the damage or loss in the same position as if the damage or loss had not occurred.

The landlord and the tenant both agree that the outstanding arrears owing to the city are the tenant's responsibility and that the original amount has been reduced to \$313.31 by payments made to the city by the tenant. The landlord has satisfied me that as of June 13th, the arrears were put into his name by the city as evidenced by the bill in his name.

I am satisfied by the evidence before me that the bill has now been registered against the landlord who is now obliged to pay the city for the utility arrears incurred by the tenant. The landlord is now in a position where he faces the potential of property tax arrears owing to the city if not paid. Pursuant to section 62(2) of the *Act*, I find the landlord suffered a loss in the amount of \$313.31 for the tenant's failure to pay her utility bills to the city. I award the landlord compensation in that amount.

As the landlord was successful in his application, the landlord is entitled to recovery of the \$100.00 filing fee for the cost of this application.

The landlord continues to hold the tenant's security deposit in the amount of \$1,125.00. In accordance with section 72 of the *Act*, I order the landlord to retain the sum of \$413.31 and return the remainder, or \$722.69.

Conclusion

I issue a monetary order in favour of the tenant for \$722.69.

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: August 16, 2019

Residential Tenancy Branch