



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

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, for damage to the rental unit, and 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 pet damage and security deposit s for this tenancy in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and 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 landlord has submitted a number of applications for the issuance of a substituted service order pursuant to section 71 of the *Act*. The most recent of these applications led to a substituted service order by an Adjudicator appointed pursuant to the *Act* on June 27, 2019. In the most recent Adjudicator's decision of that date, the Adjudicator allowed the landlord's application to be allowed to serve the two Respondents at the email addresses outlined above.

Tenant DV (the tenant) confirmed that they received a copy of the substituted service decision issued by the Adjudicator with the landlord's dispute resolution hearing package and written evidence sent by the landlord on June 28, 2019. The tenant said that they had not noticed this application when it arrived because they do not regularly check their emails. I find that the tenant was served with this package of information in

accordance with the terms of the Adjudicator's June 27, 2019, and that the tenant was duly served with this information in accordance with sections 88 and 89 of the *Act*.

Respondent JB (the second Respondent) noted that their name was not on the Residential Tenancy Agreement (the Agreement), and that the information contained within the email package that they received from the landlord provided the landlord's access code for submitting written evidence instead of the Respondent's access code. As the second Respondent did confirm receipt of the dispute resolution hearing package, I find that this service occurred in accordance with the Adjudicator's June 27, 2019 decision and section 89 of the *Act*.

Since the second Respondent was not listed as a tenant on the Agreement and did not sign the most recent Agreement, I advised the landlord that their request for a monetary award can only be directed at the tenant as the Respondent in their application for a monetary award.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and utilities? Is the landlord entitled to a monetary award for losses arising out of this tenancy? Is the landlord entitled to a monetary award for damage arising out of this tenancy? Is the landlord entitled to retain all or a portion of the pet damage and security deposit for this tenancy in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the Respondents?

Background and Evidence

The parties gave sworn testimony that the Respondents moved into these premises in April 2017. Monthly rent was initially set at \$2,400.00, although neither party had copies of the original tenancy agreement.

On August 1, 2018, Tenant DV signed a one-year fixed term Agreement with the landlord for a tenancy that was to cover the period from August 1, 2018 until July 31, 2019.

According to the terms of the Agreement, monthly rent was set at \$3,675.00, payable in advance on the first of each month, plus hydro and gas payments for this tenancy. The landlord continues to hold the \$1,000.00 security deposit and \$500.00 pet damage deposit for this tenancy paid in August 2018. The parties agreed that the real monthly

rent for this tenancy was supposed to be \$2,400.00, the amount that they had initially agreed to when this tenancy began, but that the increased amount identified in the Agreement was designed to allow the tenants to catch up in outstanding rent that had become owing.

The parties also agreed that this tenancy ended on December 14, 2018. The landlord said that they were able to mitigate the tenant's exposure to their loss of rent for the remainder of the fixed term Agreement signed in August 2018, as they re-rented the premises to other tenants who took possession of the rental premises in January 2019.

The landlord's application for a monetary award of \$15,136.00 included a request for reimbursement for the following items noted on the Monetary Order Worksheet the landlord entered into written evidence for this hearing:

Item	Amount
Unpaid Hydro Bills	\$186.97
Unpaid Gas Bills	300.94
Reimbursement of the Landlord's Travel Costs to the Rental Property	571.23
Reimbursement of 2 Weeks of Lost Wages by the Landlord	1,900.00
Unpaid Rent Owing for this Tenancy	13,677.66
Less Security and Pet Damage Deposit s	-1,500.00
Total of Above Items	\$15,136.80

The landlord also requested the recovery of the landlord's \$100.00 filing fee from the Respondents.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the landlord and the tenant engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. Tenant DV agreed to pay the landlord a total of \$7,565.67.

2. Tenant DV agreed to send the landlord an email containing a mailing address where the tenant could be contacted.
3. The Respondents gave permission to the landlord to retain the pet damage and security deposit for this tenancy.
4. Tenant DV and the landlord agreed that this settlement agreement constituted a final and binding resolution of the landlord's application and all issues currently in dispute arising out of this tenancy and that they did so of their own free will and without any element of force or coercion having been applied.

Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$7,565.67 against Tenant DV (the tenant). I deliver this Order to the landlord in support of the above agreement for use in the event that the tenant does not abide by the terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible after any failure to abide by the terms of this portion of their agreement. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

I order the landlord to retain the pet damage and security deposits for this tenancy, as per evidence provided by the Respondents in this application.

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: September 09, 2019

Residential Tenancy Branch