



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB MNRL

Introduction

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

- an Order of Possession pursuant to section 55; and
- a monetary order for unpaid rent and utilities pursuant to section 67;

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed that the landlord and I were the only ones who had called into this teleconference.

At the beginning of the hearing the landlord indicated that they did not require an Order of Possession as the tenants had moved out on August 22, 2019. Accordingly the landlord's application for an Order of Possession was withdrawn by the landlord.

The landlord testified that the tenants were served with the landlord's amended application for dispute resolution hearing package and evidence on August 15, 2019 by way of registered mail. The landlord provided tracking numbers during the hearing. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's amended application and evidence on August 20, 2019, five days after its registered mailing. The tenants did not submit any written evidence.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent and utilities?

Background and Evidence

The landlord testified regarding the following facts. This fixed-term tenancy began on December 15, 2018. Monthly rent was set at \$2,000.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$1,000.00, which the landlord still holds. The landlord was granted an Order of Possession by an Arbitrator on August 20, 2019, and the tenants moved out on August 22, 2019.

The landlord is seeking a monetary order for unpaid rent and utilities as set out in the table below:

Item	Amount
Unpaid Rent for April 2019	\$100.00
Unpaid Rent for May 2019	2,000.00
Unpaid Rent for June 2019	1,000.00
Unpaid Rent for July 2019	2,000.00
Unpaid rent for August 2019	2,000.00
Unpaid Gas Bill	417.67
Unpaid Electricity Bill	715.51
Total Monetary Order Requested	\$8,233.18

Analysis

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

26 (1) *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.*

The landlord provided undisputed evidence that the tenants failed to pay the outstanding rent in the amount of \$7,100.00, and utilities in the amount of \$1,133.18. Therefore, I find that the landlord is entitled to \$7,100.00 in outstanding rent for this tenancy, and \$1,133.18 in outstanding utilities for this tenancy. I allow the landlord a monetary order for these amounts.

The landlord continues to hold the tenants' security deposit of \$1,000.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlord to retain the tenants' security deposit in partial satisfaction of the monetary claim.

Conclusion

The landlords withdrew their application for an Order of Possession as the tenants had moved out.

I issue a \$7,233.18 Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover the unpaid rent and utilities for this tenancy, and and retain the tenants' security deposit in partial satisfaction of their claim.

Item	Amount
Unpaid Rent for April 2019	\$100.00
Unpaid Rent for May 2019	2,000.00
Unpaid Rent for June 2019	1,000.00
Unpaid Rent for July 2019	2,000.00
Unpaid rent for August 2019	2,000.00
Unpaid Gas Bill	417.67
Unpaid Electricity Bill	715.51
Less Security Deposit	-1,000.00
Total Monetary Order	\$7,233.18

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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: September 10, 2019

Residential Tenancy Branch