



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 October 15, 2019. The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities.

The Landlords provided testimony at the hearing. The Tenant did not attend the hearing.

The Landlords testified that they sent a copy of the Notice of Hearing to the Tenant on July 12, 2019, by registered mail. The Landlord provided a copy of the registered mailing receipt. I find the Tenant received this package on July 17, 2019, the fifth day after its registered mailing, pursuant to Section 90 of the *Act*.

The Landlords have requested to amend their application to include rent that has accrued since the original application date. They explained that the Tenant did not move out and rent continued to accrue after they applied. I turn to the following Rules of Procedure (4.2):

Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

In consideration of this, I allow the Landlords to amend their application accordingly.

The Landlords were 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 Landlords testified that monthly rent is \$1,200.00, and is due on the first of the month. The Landlords stated that the Tenant stopped paying rent, and refused to move out. The Landlords stated that at the time of this application, they already had obtained an order of possession, and a monetary order for unpaid June 2019 rent. The Landlords explained that the Tenant did not move out until early August (when the bailiff came to remove her). As such, the Landlord is now seeking the outstanding rent that accumulated while the Tenant remained in the unit and refused to move out.

The Landlords stated that they are seeking rent for July and August because the Tenant was not removed by the bailiffs until early August, and then they had to do repairs and significant cleaning, including trips to the dump, after the Tenant left. The Landlords stated that the unit was not rentable until later in August, and they found a new Tenant for September 2019.

The Landlords also wanted to claim their bailiff expenses at this hearing. However, they did not file an amendment to their application. The Landlords are unsure where the Tenant has moved to, and they are not sure how they are going to recover their money at this point. It was explained in the hearing that since they did not file an amendment, I could only consider issues they had listed on their initial application (unpaid rent).

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 (security deposit overpayment, emergency repairs paid for by the Tenant, illegal rent increases, or another Order by an Arbitrator).

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 Tenant owes and has failed to pay \$2,400.00 in rent for July and August of 2019. I note the Tenant did not vacate the rental unit, until she was forcibly removed by the bailiff in early August. At that point, the Landlords were required to clean, repair, and dispose of the remaining garbage left behind by the Tenant, which made the Landlord's unable to re-rent for August. As such, I find the Landlords are entitled to July and August rent, in full.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlords were successful in this hearing, I also order the Tenant to repay the \$100.00 fee the Landlords paid to make the application for dispute resolution. In summary, I grant the monetary order in the amount of \$2,500.00.

Conclusion

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$2,500.00**. 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: October 15, 2019

Residential Tenancy Branch