



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution. A participatory hearing was held on December 6, 2019. The landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid utilities;
- a monetary order for unpaid utilities;
- to recover the filing fee from the tenants for the cost of this application.

The landlord attended the hearing and provided testimony. The tenants did not attend the hearing.

The Landlord stated that he sent a copy of the Application for Dispute Resolution along with supporting documentary evidence to each of the Tenants at the rental unit by registered mail on November 1, 2019. I find the tenants are deemed to have received these packages on November 6, 2019, the fifth day after their registered mailing, pursuant to Section 90 of the *Act*.

The Landlord testified that the tenants moved out of the rental unit sometime in mid-November of 2019. As such, he no longer requires an order of possession. In consideration of this, I hereby amend the Landlord's application accordingly and will not be addressing his request for an order of possession any further.

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.

Preliminary Matters

The Landlord is seeking to recover unpaid utilities, as the Tenants have not paid any of their bills since moving in. The Landlord stated that this amount continued to accrue since he first made his request to the Tenants to repay their bills. As stated in the hearing, the Landlord's claim amount is limited to the amount listed on his application, which coincides with the utility amounts up until May 2019. The Landlord did not amend his application such that the amounts after this time could be incorporated in the hearing today. The Landlord is granted leave to reapply for the outstanding utilities for June 2019 onwards.

Issues to be Decided

1. Is the landlord entitled to a monetary order for unpaid 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 provided a copy of the Tenancy Agreement into evidence, which shows that the Tenants are responsible for paying 50% of gas, electricity, and water/garbage. The Landlord stated that the bills are in his name and yet the Tenants never once paid their utility bills since they moved in.

The Landlord stated that the Tenants moved into the unit on September 1, 2018, and lived there until mid-November 2019. The Landlord stated that despite giving the tenants copies of these bills on several occasions, they still did not pay, and eventually moved out without addressing the issue. The Landlord provided copies of the relevant bills for these periods, and summarized what is owed for each of the 3 different types of bills from September 2018 until May 2019 as follows:

Period Ending	Electricity	Gas	Water/Garbage	Total	Total Each Tenant	Owing
01-Oct-18	\$208.82	\$62.32	\$133.65	\$404.79	\$202.39	\$202.39
01-Nov-18	\$159.76	\$33.53	\$133.65	\$326.94	\$163.47	\$365.86
01-Dec-18	\$216.18	\$37.52	\$133.65	\$387.35	\$193.67	\$559.54
01-Jan-19	\$255.78	\$40.74	\$134.98	\$431.50	\$215.75	\$775.29
01-Feb-19	\$268.97	\$57.96	\$134.98	\$461.91	\$230.95	\$1,006.24
01-Mar-19	\$283.17	\$57.64	\$134.98	\$475.79	\$237.89	\$1,244.13
01-Apr-19	\$147.77	\$28.86	\$134.98	\$311.61	\$155.80	\$1,399.94
01-May-19	\$82.75	\$29.53	\$134.98	\$247.26	\$123.63	\$1,523.56

The Landlord stated that he provided the bills and the requests to be reimbursed multiple times, in June, September and October 2019. The Landlord stated that the Tenants owe \$1,523.56, as laid out above for September 2018- May 2019 for the 3 bills identified.

Analysis

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

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

With respect to the Landlord's request for a Monetary Order for unpaid utilities, 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 \$1,523.56 in unpaid gas, electricity, and water/garbage utility bills for the period from September 2018 until May 2019. I find the landlord is entitled to a monetary order for this amount.

Further, 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 substantially successful in this hearing, I order the tenants to repay the \$100. In summary, I grant the monetary order in the amount of \$1,623.56

Conclusion

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$1,623.56**. This order must be served on the tenants. If the tenants fail 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: December 06, 2019

Residential Tenancy Branch