



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 was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act). The landlord applied for a monetary order in the amount of \$1,493.15 for unpaid rent and/or utilities, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to retain the tenants' security deposit and pet damage deposit towards money owing, and to recover the cost of the filing fee.

On November 28, 2019, the hearing began and after 16 minutes was adjourned due to tenant health issues. An Interim Decision dated November 28, 2019 was issued, which should be read in conjunction with this decision. The Interim Decision was sent to both parties by the email addresses provided and confirmed on November 28, 2019.

On January 21, 2020, the hearing was reconvened and only the landlord agent AI (agent) attended the teleconference hearing. The hearing process was explained to the agent and they were given an opportunity to ask questions about the hearing process. Thereafter the agent gave affirmed testimony, was provided the opportunity to present their relevant evidence orally and in documentary form prior to the hearing, and make submissions to me.

As neither tenant attended the reconvened hearing, which lasted 30 minutes, service of the Notice of a Dispute Resolution Proceeding dated November 29, 2019 (Notice of Adjourned Hearing) was considered. The case management system audit notes confirm that both parties were served by email with the Notice of Adjourned Hearing on November 29, 2019 and a caution was included to both parties that there were new access codes provided on the Notice of Adjourned Hearing.

As neither tenant attended the reconvened hearing, I find that this matter to be undisputed by the tenants. Given the above, the hearing continued without the tenants present.

In addition, I have reviewed all 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. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matter

On November 28, 2019, the parties confirmed their email addresses. The parties also confirmed that they understood that the decision would be emailed to both parties. Any applicable orders will be sent only to the landlord by email for service on the tenants.

Issues to be Decided

- Is the landlord entitled to a monetary claim under the Act, and if so, in what amount?
- What should happen to the tenants' security deposit and pet damage deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of two tenancy agreements were submitted in evidence. The agent testified that the first fixed-term tenancy agreement began on November 30, 2015 and was provided to show that the original security deposit was \$625.00 and that the original pet damage deposit was \$200.00 for a total of \$825.00 in combined deposits (combined deposits). Although originally monthly rent was \$1,250.00 per month, the last signed fixed-term tenancy agreement began effective December 1, 2018 and the rent was \$1,325.00 monthly and due on the first day of each month. The agent also referred to the signed addendum, which indicated that monthly rent increased to \$1,350.00 as of March 1, 2019.

The agent testified that the tenants provided their written notice to end the tenancy in mid-June of 2019 effective July 31, 2019. The agent stated the tenancy did not pay July 2019 rent and did not vacated the rental unit until August 1, 2019.

The landlord's monetary claim of \$1,493.15 contains a mathematical error and I find the actual total is less, which is \$1,479.85 as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid July 2019 rent	\$1,350.00
2. Fortis BC May 2019 unpaid utilities	\$19.95
3. Fortis BC June 2019 unpaid utilities	\$13.65
4. Fortis BC July 2019 unpaid utilities	\$12.95
5. BC Hydro June 2019 unpaid utilities	\$70.35
6. BC Hydro through to July 31, 2019 unpaid utilities	\$12.95
TOTAL	\$1,479.85

Regarding item 1, the agent testified that the tenants failed to pay any of the July 2019 rent in the amount of \$1,350.00 and did not vacate the rental unit until August 1, 2019.

Regarding items 2 through 6 inclusive, the landlord has claimed for the unpaid utilities as listed in the table above. The landlord submitted receipts in supports of each item and stated that the tenants' portion was 35% of hydro and gas as per the tenancy agreement addendum, which supports the testimony of the agent.

The landlord is also seeking the filing fee and to offset the combined deposits of \$825.00. The agent stated that the tenants provided their written forwarding address as of August 1, 2019. The landlord filed their application claiming against the combined deposits four days later on August 5, 2019.

Analysis

Based on the undisputed testimony of the agent and the undisputed documentary evidence before me, and on the balance of probabilities, I find the following.

Item 1 - I accept the undisputed testimony that the tenants failed to pay rent for July 2019 in the amount of \$1,350.00. Section 26 of the Act requires tenants to pay rent on the date that it is due. As a result, I find the tenants breached section 26 of the Act. Given the above, I find the landlord has met the burden of proof and is owed **\$1,350.00** for unpaid July 2019 rent by the tenants.

Items 2 to 6 – Based on the utility bills, the tenancy agreement with addendum, and taking into consideration the undisputed testimony of the agent that the tenants failed to

pay their 35% share of hydro and gas utilities as claimed, I find the landlord has met the burden of proof. Therefore, I find the tenants owe the landlord **\$129.85** as claimed for these items.

As the landlord has succeeded with their application, and pursuant to section 72 of the Act, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00**.

Given the above, I find the landlord has established a total monetary claim of **\$1,579.85**, comprised of \$1,350.00 for item 1, \$129.85 for items 2 through 6, plus the \$100.00 filing fee. Pursuant to section 38 of the Act, I authorize the landlord to retain the tenants' full combined deposits of \$825.00, which have accrued \$0.00 under the Act, in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the Act in the balance owing by the tenants to the landlord in the amount of **\$754.85**.

Conclusion

The landlord's application is successful, with the exception of a minor adding error described above.

The landlord has established a total monetary claim of \$1,579.85 as indicated above. The landlord has been authorized to retain the tenants' full combined deposits of \$825.00, which have accrued \$0.00 under the Act, in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the Act in the balance owing by the tenants to the landlord in the amount of \$754.85.

This decision will be emailed to both parties. The monetary order will be emailed to the landlord only for service on the tenants.

Should the landlord require enforcement of the monetary order, the landlord must serve the tenants with the order, which then may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: January 21, 2020