



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

In this dispute, the landlords sought compensation against the tenants for unpaid rent and unpaid utilities, pursuant to section 67 of the *Residential Tenancy Act* (the “Act”), and, for recovery of the filing fee pursuant to section 72 of the Act. The landlords’ application had included a request for an order of possession, however, they obtained an order of possession in another hearing; as such, that aspect of this application will not be considered.

The landlords applied for dispute resolution on February 19, 2020 and a dispute resolution hearing was held on March 31, 2020. The landlords’ three representatives attended the hearing, were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenants did not attend. One of the landlords’ representatives testified that they served the tenants with a Notice of Dispute Resolution Proceeding package (the “package”) by way of registered mail on March 3, 2020. As such, based on the undisputed testimony of the agent, I find that the tenants were served the package in compliance with section 89 of the Act.

I have reviewed evidence submitted that met the *Rules of Procedure* and to which I was referred but have only considered evidence relevant to the issues of this application.

Issues

1. Are the landlords entitled to a monetary order for unpaid rent and utilities?
2. Are the landlords entitled to a monetary order for recovery of the filing fee?
3. Are the landlords entitled to retain any or all of the security and pet damage deposits in satisfaction of any award?

Background and Evidence

The landlords (I use the term “landlords” or “landlord” to mean the agents who testified) testified that the tenancy began on June 15, 2017. Monthly rent was originally \$4,800.00 and is currently \$4,992.00. The tenants paid a security deposit of \$2,400.00 and a pet damage deposit of \$2,400.00. A copy of the written tenancy agreement was submitted into evidence.

The landlords testified that the tenants have not paid rent or utilities in quite some time, and currently owe \$22,332.00 in unpaid rent and utilities. A Monetary Order Worksheet (current as of February 2020), an account statement, a copy of a 10 Day Notice to End Tenancy for Unpaid Rent, copies of utilities bills, and a 30 Day Written Demand Letter were submitted into, and referenced, as evidence.

I note that the previous arbitrator's decision of March 20, 2020, held that the tenancy ended on February 17, 2020. An order of possession was issued along with that decision. The landlords testified that the tenants remain in the rental unit and continue not to pay rent.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Claim for Unpaid Rent and Utilities

Section 26(1) of the Act states that 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 landlords testified, and provided supporting documentary evidence, that the tenants owe a total of \$22,332.00 in rent and utilities arrears. There is no contrary evidence for me to question the amounts owing, and the evidence is consistent with the landlords' position. Further, there is nothing for me to find that the tenants had a right under the Act to deduct all or a portion of the rent. Nor is there any evidence that the tenants had a right not to pay for utilities, as is required by their written tenancy agreement.

Therefore, in taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving that they are owed the amount as claimed. I grant the landlords an award of \$22,332.00 in respect of the unpaid rent and utilities.

Claim for Filing Fee

Section 72(1) of the Act provides that an arbitrator may order payment of a fee under section 59(2)(c) by one party to a dispute resolution proceeding to another party. A successful party is generally entitled to recovery of the filing fee.

As the landlords were successful, I grant their claim for reimbursement of the filing fee of \$100.00.

Retention of Security and Pet Damage Deposits

Section 38(4) of the Act states that a landlord “may retain an amount from a security deposit or a pet damage deposit if [. . .] (b) after the end of the tenancy, the director orders that the landlord may retain the amount.” In this case, given that the tenancy ended on February 17, 2020, I order the landlords to retain the full amount of both the security deposit and the pet damage deposit in partial satisfaction of the amount awarded.

Summary of Monetary Awards and Order

A monetary award of \$22,432.00 and a monetary order of \$17,632.00 is calculated as follows:

Claim	Amount
Unpaid rent and utilities	\$22,332.00
Filing fee	\$100.00
<i>LESS</i> security and pet damage deposits	(\$4,800.00)
Total:	\$17,632.00

Rights and Obligations of Landlords and Tenants During Pandemic

As explained to the landlords during the hearing, the pandemic does not suspend or defer tenants’ obligations to comply with the Act or cease paying rent. Tenants remain legally obligated to pay rent, and enforcement of monetary orders may continue. The parties should refer to the [Residential Tenancy \(COVID-19\) Order](#), MO 73/2020, for further information.

Conclusion

I grant the landlords a monetary order for \$17,632.00, which must be served on the tenants. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: March 31, 2020

Residential Tenancy Branch