



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, MNDL-S, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damage to the unit - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord’s evidence that the Tenants were each served with the application for dispute resolution and notice of hearing by registered mail on January 11, 2020 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received application for dispute resolution and notice of hearing on January 16, 2020. The Landlord served the Tenants with its evidence package by registered mail on April 21, 2020. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

The Landlord’s application for its claim for damages to the unit contains only details of estimates. The Landlord provided no monetary worksheet for costs being claimed and

while it provides some monetary amounts for damages claimed in the body of its evidence package there are some items without any amount indicated and some items where a range for costs are indicated.

Section 59(2)(b) of the Act provides that an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings. Rule 2.5 of the Residential Tenancy Branch (the "RTB") Rules of Procedure provides that a detailed calculation of any monetary claim must be submitted with an application for dispute resolution. Given the lack of details of the monetary claim for damages to the unit within the application and the lack of a monetary order worksheet setting out detailed calculations, I find that the Landlord has not sufficiently provided full particulars for its claim for costs from the damages to the unit. I dismiss this claim with leave to reapply.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order for unpaid rent?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on December 1, 2018 and ended on December 31, 2019. Rent of \$2,450.00 to and including December 2019 was payable on the first day of each month. The rent was increased for January 1, 2020 to \$2,511.25. The tenancy agreement also included the cost of \$20.00 per month for an extra fridge. At the outset of the tenancy the Landlord collected \$1,225.00 as a security deposit. On December 2, 2019 the Tenant texted the Landlord indicating that it may move out of the unit at the end of December 2019. The Landlord informed the Tenant that this notice to end tenancy was not sufficient and not in writing. The Landlord requested that the Tenants provide a written notice definitively setting out that the tenancy would end. On December 28, 2019 the Landlord received by email the written

notice to end the tenancy for December 31, 2019 from the Tenants. The Landlord received the Tenants' forwarding address by text on December 30, 2019.

The Tenants owed rental arrears of \$400.00 for August 2019 and \$900.00 for September 2019. The Tenants failed to pay rent of \$2,450.00 plus the \$20.00 for the fridge for each month of October, November, December 2019. The Tenants failed to pay rent of \$2,511.25 plus \$20.00 for the fridge for January 2020. The Landlord claims a total of \$11,241.25. It is noted that in its application the Landlord claims \$11,180.00 as unpaid rent and the fridge charge.

Analysis

Section 26(1) of the Act provides that a tenant must pay rent when it is due under the tenancy agreement. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Based on the undisputed evidence of unpaid rent and fridge costs to and including December 2019 I find that the Landlord has substantiated that the Tenants owe rent of **\$8,710.00** for this period.

Section 53(3)(a) of the Act provides that in the case of a notice to end a tenancy, if the effective date stated in the notice is any day other than the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, the effective date is deemed to be the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement that complies with the required notice period. Given the undisputed evidence that rent is payable on the first day of each month and that on December 28, 2019 the Tenant gave notice to end the tenancy for December 31, 2019 I find that the effective date of the Tenants' notice is automatically changed to January 31, 2020. Based on the undisputed evidence that the Tenants did not pay any rent for January 2020 I find that the Landlord has substantiated that the Tenants owe the rent and fridge costs of **\$2,531.25**

Rule 2.2 of the RTB Rules of Procedure provides that claims are limited to what is stated in the application. As the Landlord's application sets out a rent and fridge claim of \$11,180.00, I find that despite the amounts set out as owed by the Tenants the Landlord is restricted to an entitlement of **\$11,180.00**.

As the Landlord has been successful with this claim I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$11,280.00**. Deducting the security deposit plus zero interest of **\$1,225.00** from this entitlement leaves **\$10,055.00** owed to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of \$1,225.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining \$10,055.00. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: May 19, 2020