



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDCL, FFL

Introduction

The landlord filed an application for Dispute Resolution (the “Application”) on February 20, 2020 seeking an order to recover monetary loss for unpaid rent and the cost of the hearing filing fee. On May 21, 2020 the landlord amended their application to include compensation for other monetary loss.

The matter proceeded by way of a hearing on June 1, 2020 pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”). In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord and their agent attended the hearing; the tenant did not attend. The tenant did not submit or serve documents as evidence for this hearing.

In the hearing, the landlord confirmed they hand-delivered notice of this hearing to the tenant on February 20, 2020 at their workplace. They confirmed they forwarded the evidence they rely on for this hearing via email.

On the May 21 application amendment, the landlord also sent a copy of that evidence to the email address they routinely used from the tenant from 2017 onwards. From the evidence presented by the landlord, and with consideration to section 71 of the *Act*, I find the tenant was sufficiently served with notice of this hearing, as well as the landlord’s evidence.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to a monetary order for compensation for other money owed pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

Background and Evidence

The landlord did not submit a copy of the tenancy agreement for this hearing. They spoke to the terms of the agreement, which is renewed every year. The term of the agreement that covers this dispute is from March 1, 2019 to February 28, 2020. Both parties signed this agreement on March 1, 2019. The amount of rent was \$1,759.00 per month. There was no security deposit ever paid, and on the current agreement this space remains blank.

Both parties mutually agreed to end the tenancy, and this agreement was made two months ahead of time. At that time both parties discussed signing another agreement and the tenant stated they would not renew. This meant the end of tenancy was February 28, 2020. The parties did not put this end of tenancy agreement in writing.

The landlord stated they issued a '10 Day Notice for Unpaid Rent or Utilities' on two occasions in the past. This was January 6, 2020 and February 9, 2020. They stated the tenant did not pay the rent amount owing and did not follow the directions on each of those documents they served. The landlords did not provide copies of these documents as evidence for this hearing.

The tenant did not pay rent for January or February 2020. The landlord stated that the tenant would provide a date and time they would agree to meet and pay but did not attend. The most recent arranged date was February 1, at which time the tenant was going to pay the January and February rent. The tenant did not attend this scheduled meeting.

The landlord claims for the unpaid rent for January and February 2020. This is \$3,518.00. The landlord submitted bank account activity records to show they did not receive the deposit for each month from the tenant. For comparison, they showed the month of December 2019 and what that transaction does look like when completed by the tenant.

The landlord stated they were not sure when the tenant vacated the unit. They placed notices on the front and back doors to give notice they were entering the unit on February 10 and 14. The tenant did not return the key, so the landlord had to hire a locksmith to eventually enter the unit.

The unit was filled with garbage and a number of other items. The landlord tried to understand from the tenant whether these were personal belongings they wanted to keep. The tenant was not responding to the landlord's enquiries, so much later the tenant responded, "get rid of it."

This accounts for the time period from February through to the time when the landlord amended their application to claim for the costs of junk removal.

On May 20, the landlord amended their claim to include the removal of garbage. This total amount is \$2,248.00. One receipt is dated May 9, 2020 for \$1,048.00; the second receipt is dated April 25, 2020 for \$1,200.00.

Analysis

From the testimony of the landlord I am satisfied that a tenancy agreement was in place. The landlord provided the specific term of the rental amount. The tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

I accept the undisputed evidence before me that the tenant failed to pay the rent for two months in full by the end of the tenancy on February 28, 2020. Based on the landlord's oral testimony, I find the tenant breached the tenancy agreement and left two months of rent unpaid. I grant compensation for this amount for \$3,518.00.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

The *Act* section 37(2)(a) provides that when vacating a unit, the tenant must "leave the rental unit reasonably clean." Also, the tenant must give the keys to the landlord and allow access to the rental unit.

I note that for the purposes of this claim, the landlord must provide sufficient evidence to establish any alleged damage occurred during the tenancy and as such, must have provided evidence of the condition of the rental unit at the start of the tenancy. However, there is no requirement for the landlord to meet the same burden when it relates to any cleaning required at the end of the tenancy.

The Amended Application completed by the landlord contains a worksheet, and this identifies the need for cleaning in the form of junk removal. I accept this evidence from the landlord, including receipts for the cost of the work they paid for. I find the landlord was unable to

proceed on work because they had to confirm vacancy of the unit, and then ascertain from the tenant whether they wanted to keep anything from the unit.

The photos provided by the landlord show separate rooms of the unit filled with garbage. This is to a degree where passages within the unit are not passable. Moreover, the outdoor area of the unit is strewn with garbage throughout. From this evidence, I am satisfied the landlord had to undertake the significant effort to clean out the unit through hiring contractors for junk removal. The landlord testified in the hearing that this work of junk removal is the preliminary work to renovating the unit and making repairs to ensure it is suitable for rental accommodation to future tenants.

The worksheet shows specific paid amounts, and this is verified with receipts the landlord submitted. I find the amount of \$2,248.00 represents completed work, paid for by the landlord. This is the result of the tenant breaching section 37(2)(a) of the *Act*. The landlord shall receive this amount for compensation.

Because they are successful in their application, I grant the \$100.00 cost of the filing fee to the landlord.

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$5,866.00. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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 *Act*.

Dated: June 4, 2020

Residential Tenancy Branch