



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

On June 16, 2020, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”), seeking to apply the security deposit towards these debts pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenant did not appear during the 13-minute teleconference hearing. All parties in attendance provided a solemn affirmation.

The Landlord advised that she served the Notice of Hearing and evidence package to the Tenant by email on June 17, 2020 to the email address that the Tenant used for communicating with the Landlord. Based on this undisputed testimony, I am satisfied that the Tenant has been served the Notice of Hearing and evidence package. As such, I have accepted this evidence and will consider it when rendering this Decision.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?
- Is the Landlord entitled to apply the security deposit towards these debts?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy started on January 1, 2020 as a month to month tenancy, and that the tenancy ended when the Tenant gave up vacant possession of the rental unit on June 3, 2020. Rent was established at \$1,200.00 per month and it was due on the first day of each month. A security deposit of \$600.00 was paid. A copy of the signed tenancy agreement was submitted into evidence.

She stated that the Tenant provided her forwarding address in writing on an email sent June 3, 2020.

She advised that she was seeking compensation in the amount of **\$839.04** because the Tenant did not pay for the utilities that she owed during the tenancy. She stated that the Tenant was responsible for half of the total utilities. She submitted a copy of the utility bills and a spreadsheet to support the cost of the Tenant's portion of the utilities in arrears.

She also advised that she was seeking compensation in the amount of **\$3,300.00**, which was comprised of \$900.00 for May 2020 rental arrears, \$1,200.00 for June 2020 rental arrears, and \$1,200.00 as July 2020 rental arrears. However, as she was advised that this was a month to month tenancy and that the Tenant gave her notice to end her tenancy in May 2020, she would not be eligible to claim for July 2020 rental loss. She provided a copy of a rent ledger to support her position that the Tenant was still in arrears.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 38(1) of the *Act* requires the Landlord, within 15 days of the end of the tenancy or the date on which the Landlord receive the Tenant's forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an

Order allowing the Landlord to retain the deposit. If the Landlord fails to comply with Section 38(1), then the Landlord may not make a claim against the deposit, and the Landlord must pay double the deposit to the Tenant, pursuant to Section 38(6) of the *Act*.

The undisputed evidence is that the forwarding address in writing was provided to the Landlord on June 3, 2020 and that the tenancy ended when the Tenant gave up vacant possession of the rental unit on the same date. As the Landlord made her Application within the 15-day time frame to claim against the deposit, I find that the doubling provisions do not apply in this instance.

With respect to the Landlord's claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Regarding the Landlord's claim for compensation in the amount of \$839.04 to cover the cost of utilities owed, based on the undisputed evidence before me, I am satisfied that the Landlord should be granted a monetary award in the amount of **\$839.04**.

With respect to the Landlord's claim for compensation in the amount of \$3,300.00 for the rental arrears, based on the undisputed evidence before me, I am satisfied that the Tenant is in arrears of \$900.00 for May 2020 and \$1,200.00 for June 2020. As such, I grant the Landlord a monetary award in the amount of **\$2,100.00**.

As the Landlord was successful in her claims, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to keep the security deposit in partial satisfaction of the debt awarded.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a Monetary Order as follows:

Calculation of Monetary Award Payable by the Tenant to the Landlord

Utilities in arrears	\$839.04
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May 2020 rent arrears	\$900.00
June 2020 rent arrears	\$1,200.00
Filing fee	\$100.00
Security deposit	-\$600.00
TOTAL MONETARY AWARD	\$2,439.04

Conclusion

The Landlord is provided with a Monetary Order in the amount of **\$2,439.04** 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 *Residential Tenancy Act*.

Dated: September 8, 2020

Residential Tenancy Branch