



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDCL MNRL FFL

Introduction

In this dispute, the landlord seeks a monetary order against their tenants for unpaid rent and unpaid utilities in the amount of \$12,387.23 pursuant to section 67 of the *Residential Tenancy Act* (the “Act”). In addition, it seeks recovery of the \$100.00 filing fee under section 72 of the Act.

The landlord filed an application for dispute resolution on June 23, 2020 and a dispute resolution hearing was held on October 13, 2020. The landlords’ two agents attended the hearing and were given a full opportunity to be heard, present testimony, make submissions, and call witnesses; the tenants did not attend.

One of the landlord’s agents gave evidence that they served the Notice of Dispute Resolution Proceeding package on the tenants by way of Canada Post registered mail on June 26, 2020. Copies of the registered mail tracking information was submitted into evidence.

Based on this undisputed evidence I find that the tenants were served in compliance with both the Act and the *Rules of Procedure*.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issues of this application.

Issues

1. Is the landlord entitled to a monetary order for unpaid rent and utilities?
2. Is the landlord entitled to recovery of the application filing fee?

Background and Evidence

By way of background, the tenancy in this dispute began on August 1, 2019, and the tenants vacated the rental unit on July 3, 2020. Monthly rent, which was due on the first day of the month, was \$2,457.00. There was no security deposit. A copy of the written tenancy agreement, which included an eight-page addendum, was submitted into evidence by the landlord.

Clause 26 of the addendum states that the tenant is responsible for paying all the utilities for the rental unit, “including but not limited to telephone, hot water, cold water, heat, cablevision, sewer, utility metering fees and electricity, all of which are not included in the base rent.” Further, the clause states that

The Tenant must maintain its utilities accounts current. The discontinuation or nonpayment of any utilities resulting from the Tenant cancelling or failing to maintain current payments is a breach of a material term of this Agreement.

In this application, the landlord seeks \$11,274.13 in unpaid rent and \$1,113.10 in unpaid utilities, for a total of \$12,387.23. A copy of the tenants’ ledger and various other bills and invoices, including demand letters, and a Monetary Order Worksheet, were submitted into evidence by the landlord in support of this application.

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.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of the rent. Rent includes any utilities for which a tenant is responsible.

The landlord’s agents testified, and provided undisputed documentary evidence to support their submission, that the tenants did not pay rent when it was due and are in arrears for the amount claimed. Further, they provided oral and documentary evidence establishing the amount of overdue utilities. Finally, it should be noted that there is no evidence before me that the tenants had a right under the Act to not pay the rent or the utilities.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for compensation in the amount of \$12,387.23.

Finally, 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 landlord was successful, I grant their claim for reimbursement of the \$100.00 filing fee.

A total monetary order, which is issued in conjunction with this Decision, is granted to the landlord in the amount of \$12,487.23.

Conclusion

The landlord's application is granted.

I hereby grant the landlord a monetary order in the amount of \$12,487.23. The landlord must serve the monetary Order on the tenants. If the tenants fail to promptly pay the landlord the amount owed, the landlord is at liberty to file, and enforce, the order in the Provincial Court of British Columbia (Small Claims Court).

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: October 13, 2020

Residential Tenancy Branch