



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL, MNDCL, FFL**

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- A monetary award for unpaid rent and utilities, damages and loss pursuant to section 67; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord appeared and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with their notice of application and evidence by registered mail sent on July 7, 2020. The landlord provided a valid Canada Post receipt and tracking number as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on July 12, 2020, five days after mailing in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed additional rent has become due and owing and the total amount of the arrear as at October 26, 2020, the date of the hearing is \$9,212.86. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure, as additional rent and utilities coming due is reasonably foreseeable, I amend the landlord's Application to increase the monetary claim from \$7,346.07 to \$9,212.86.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord provided undisputed evidence of the following facts. This periodic tenancy began in December, 2019. The monthly rent was \$1,800.00 payable on the first of each month. The tenant is also responsible for paying utilities for the rental unit. The signed tenancy agreement provides that there is a \$25.00 late fee chargeable for each month where rent is not paid by the due date. A security deposit of \$900.00 was collected at the start of the tenancy and is still held by the landlord.

The tenant vacated the rental unit sometime in August, 2020. The tenant failed to pay any amount of rent from April, 2020 onwards and paid no utilities, despite being given written demand to pay outstanding utilities. The landlord submits that as at October 26, 2020 the rental and utility arrear for this tenancy is \$9,212.86.

The landlord also seeks late fees of \$25.00 for each of the months of April, May, June and July. The landlord further submits that the tenant failed to dispose of garbage on the rental premises despite numerous verbal and written warnings that they were required to do so, and the landlord disposed of the garbage at their own expense. The landlord submits that the cost of disposal was \$126.50. The landlord submitted into evidence copies of receipts for waste disposal and documentation of the time involved.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed evidence of the landlord that there was a valid tenancy agreement wherein the tenant was obligated to pay monthly rent in the amount of \$1,800.00, utilities as demanded and late fees were chargeable on any monthly rent not paid by the first of each month. I accept the evidence of the landlord that the tenant failed to pay rent and utilities and there is an arrear of \$9,212.86 as at the date of the hearing. I further accept that late fees of \$100.00 are chargeable to the tenant.

I further accept that the tenant failed to clean the rental premises as required and the landlord incurred costs for cleaning of the site in the amount of \$126.50.

I accept the evidence of the landlord that this tenancy has ended with the tenant abandoning the suite sometime in August, 2020.

Accordingly, while the rental arrear arises from unpaid affected rent as defined in the COVID-19 (Residential Tenancy Act and Manufactured Home Park Tenancy Act) (No. 2) Regulation, as expanded upon in Residential Tenancy Policy Guideline 52:

If a tenancy has ended prior to a repayment plan being given, or ends after a repayment plan has been given or there is a prior agreement and the tenant has failed to pay an installment, the arbitrator may grant a monetary order that the unpaid affected rent be paid in full as of the date of the order.

Accordingly, I issue a monetary order in the landlord's favor in the amount of \$9,439.36 for unpaid rent, utilities, late fees and damages and loss.

As the landlord was successful in their application, they are entitled to recover the filing fee for this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's full security deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$8,639.36, allowing the landlord to recover the unpaid rent, utilities, late fees, waste disposal costs, and filing fee and to retain the security deposit for this tenancy. 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: October 26, 2020

Residential Tenancy Branch