



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

On September 4, 2020, the Landlords submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for unpaid rent and utilities, to apply the security deposit to their claim, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlords and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

Issues to be Decided

Should the Landlords receive a Monetary Order for unpaid rent and utilities, in accordance with section 67 of the Act?

Should the Landlords be authorized to apply the security deposit to the claim, in accordance with sections 38 and 72 of the Act?

Should the Landlords be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

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.

Both parties agreed to the following terms of the tenancy:

The fourteen month, fixed-term tenancy began on November 1, 2019, and through consent of the parties, continued as a month-to-month tenancy after May 17, 2020. The

rent was \$1,600.00 a month and the Tenant was responsible for 40% of the utilities. The Landlords collected and still hold a security deposit in the amount of \$800.00.

Both parties agreed that the Tenant forwarded a notice to end tenancy on August 17, 2020 and in the notice, advised that she would be moving out of the rental unit on September 17, 2020.

Both parties agreed that the Landlord received \$296.13 from the Tenant towards the September 2020 rent.

Both parties agreed that the Tenant moved out of the rental unit on September 8, 2020 and that a move-out condition inspection was completed.

The Landlords stated that the Tenant gave improper notice to move-out on September 17, 2020, and that based on the Tenant's notice to end tenancy, the move-out date and end of tenancy should have been September 30, 2020. The Landlords testified that the Tenant did not pay the September 2020 rent in full and have also requested compensation for unpaid utilities. The Landlords acknowledged that they did not include the most recent utility bills with their evidence. The Landlords are making the following claim:

Item	Amount
Unpaid September 2020 Rent	\$1,600.00
Electricity: July 13-Sept 18, 2020 (40%)	92.24
Electricity: September 18-30, 2020 (40%)	16.46
Fortis Gas: September 2020 (40%)	40.80
Credit: partial rent payment	-296.13
Landlords' total claim	\$1,453.37

The Landlords stated that they started advertising and showing the rental unit once they knew the Tenant wanted to move out; however, had some challenges. The Landlords stated they were able to find new tenants for the rental unit and are claiming for September 2020 rent.

The Tenant stated that she has not received the latest utility bills from the Landlords and would want to view them before paying them. The Tenant acknowledged that the September gas bill would be \$40.00.

Analysis

Section 45(1) of the Act authorizes a tenant to end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

In this case, I find that the Tenant provided notice to end the tenancy on August 17, 2020 and that the effective date of that notice, September 17, 2020, should be corrected to September 30, 2020, in accordance with section 53 of the Act.

Section 26 of the Act explains that the tenant must pay rent when it is due under the Tenancy Agreement, whether or not the landlord complies with this Act, the Regulations or the Tenancy Agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent. As I do not have any evidence before me that the Tenant had a right under this Act to deduct any of their rent, I find that the Tenant is in breach of Section 26 of the Act.

I, therefore, find that the Landlords have established a monetary claim in the amount of \$1,600.00, for the unpaid September 2020 rent.

I accept that the Landlords did not submit the receipts for the latest utility bills and also accept the Tenant's testimony that she acknowledged the \$40.00 a month gas bill for September. I dismiss the Landlords' claim for electrical utilities with leave to reapply; however, grant compensation for the \$40.00 September gas bill.

The Landlords have established a monetary claim, in the amount of \$1,444.67, which includes \$1,600.00 in unpaid rent, \$40.80 in utilities, \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution, minus the partial rent payment.

Item	Amount
Unpaid September 2020 Rent	\$1,600.00
Fortis Gas: September 2020 (40%)	40.80
Filing Fee	100.00
Credit: partial rent payment	-296.13
Security Deposit	-800.00
Total Monetary Order	\$644.67

Pursuant to section 72(2) of the Act, I authorize the Landlords to keep the Tenant's security deposit in the amount of \$800.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlords a Monetary Order for the balance of \$644.67.00, in accordance with section 67 of the Act.

Conclusion

Pursuant to Section 67 of the Act, I grant the Landlords a Monetary Order for \$644.67.

In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 Residential Tenancy Branch under Section 9.1(1) of the *ACT Tenancy Act*.

Dated: December 17, 2020

Residential Tenancy Branch