



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Eurowest Developments Inc and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNRL-S, 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, damages and loss pursuant to section 67;
- Authorization to retain the deposit for this tenancy pursuant to section 38; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 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 corporate landlord was represented by their agent (the "landlord") who 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 the notice of application and evidence by registered mail sent on or about December 9, 2020 to a forwarding address provided by the tenant. The landlord submitted a valid Canada Post tracking number as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on December 14, 2020, five days after mailing, in accordance with sections 88, 89 and 90 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 testified that since the application was filed they have discovered additional unpaid utility bills for the tenant and the total arrear for unpaid rent and utilities for this tenancy is \$2,002.00. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure, as additional unpaid rent or utilities becoming known is reasonably foreseeable, I amend the landlord's application to increase the monetary claim to \$2,002.00 accordingly.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to retain the deposit for this tenancy?

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

Background and Evidence

This periodic tenancy began in May, 2019. The monthly rent was \$1,750.00 payable on the 15th of each month. The tenant was also responsible for paying their own utilities in the rental unit. A security deposit of \$875.00 and pet damage deposit of \$150.00 were paid at the start of the tenancy and are still held by the landlord.

The tenant gave written notice by an email dated November 3, 2020, failed to pay rent on November 15, 2020 and moved out on November 30, 2020. The parties participated in a move out inspection on November 30, 2020 and the tenant provided their forwarding address on the condition inspection report completed on that date.

The landlord seeks the unpaid rent due on November 15, 2020 of \$1,750.00. The landlord also gave evidence that the tenant left without paying the utilities for the rental unit and the payment was borne by the landlord. The landlord submitted the unpaid utility bill for the rental unit showing a balance owing of \$252.00.

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 the tenant was obligated to pay rent in the amount of \$1750.00 on the 15th of November and failed to do so. I further accept that the tenant was responsible for paying utilities for the rental unit to the utility

company and failed to pay an amount of \$252.00 as required. I accept the evidence that the total rent and utility arrear for this tenancy is \$2,002.00. Accordingly, I issue a monetary award in that amount in the landlord's favour.

As the landlord was successful in their application they are also entitled to recover the filing fee from the tenant.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security and pet damage 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 \$1,077.00, allowing for the recovery of the unpaid rent, utilities and filing fees and to retain the security and pet damage deposit.

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: March 30, 2021

Residential Tenancy Branch