



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

On November 27, 2020 the Landlord submitted an Application for Dispute Resolution (the “Application”), seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

- a monetary order for unpaid rent;
- an order granting authorization to retain the security deposit; and
- an order granting recovery of the filing fee.

The Landlord’s Agents W.L. and L.M., as well as the Tenants attended the hearing at the appointed date and time. At the start of the hearing, the Tenants confirmed that they received the Landlord’s Application and documentary evidence package. As such, I find these documents were sufficiently served pursuant to Section 71 of the Act. The Tenants confirmed that they did not submit any documentary evidence in response to the Application.

Preliminary Matters

At the start of the hearing, Tenant E.M. stated that S.M. should not have been named in the Landlord’s Application. The Landlord’s Agents stated that both Tenants E.M. and S.M. occupied the rental unit and that both Tenants are named on and signed the tenancy agreement.

According to the Residential Tenancy Policy Guideline 13 Rights and Responsibilities of Co-tenants;

A tenant is a person who has entered a tenancy agreement to rent a rental unit or manufactured home site. If there is no written agreement, the person who

made an oral agreement with the landlord to rent the rental unit or manufactured home site and pay the rent is the tenant. There may be more than one tenant; co-tenants are two or more tenants who rent the same rental unit or site under the same tenancy agreement. Generally, co-tenants have equal rights under their agreement and are jointly and severally responsible for meeting its terms, unless the tenancy agreement states otherwise. "Jointly and severally" means that all co-tenants are responsible, both as one group and as individuals, for complying with the terms of the tenancy agreement.

I accept that both Tenants are named on the tenancy agreement and both occupied the rental unit which is supported by the tenancy agreement provided by the Landlord. As such, I find that Tenant E.M. and S.M. were both properly named and included in the Application submitted by the Landlord.

The parties were given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent, pursuant to Section 67 of the *Act*?
2. Should the Landlord be authorized to apply the security deposit against their claim, in accordance with Sections 38 and 72 of the *Act*?
3. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy at the rental unit started on December 1, 2019. During the tenancy, the Tenants were required to pay rent in the amount of \$1,265.00 to the Landlord which was due on the first day of each month. The Tenants paid a security deposit in the amount of \$537.50 which the Landlord continues to hold. The tenancy ended on December 11, 2020. The Tenants have not yet provided their forwarding address to the Landlord.

The Landlord's Agents stated that the Tenants failed to pay the full amount of rent when due from March 2020 until the date the Tenants vacated the rental unit on December 11, 2020. The Landlord's Agents stated that currently, the Tenants owe \$4,293.06 to the Landlord in unpaid rent. The Landlord provided a detailed rent ledger in support. The Tenants agreed that they owe this amount of rent to the Landlord, however, expressed some issues relating to the tenancy which they felt entitled them to some compensation.

The Landlord has also included a claim for loss relating to "move out charges". During the hearing it was noted that the Landlord has not applied for monetary compensation relating to damage or loss and has not submitted an amendment to include this claim in their Application. As such, the Landlord's Agents were notified that the claim for loss is therefore dismissed with leave to reapply.

If successful, the Landlord is seeking to retain the Tenants' security deposit as well as for the return of the filing fee paid to make the Application.

Analysis

Based on the oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26(1) of the *Act* confirms:

A 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.

I accept that the parties agreed that the Tenants failed to pay rent to the Landlord in the amount of \$4,293.06. While the Tenants feel as though they are entitled to compensation for issues relating to the tenancy, they are at liberty to submit an Application for Dispute Resolution should they feel entitled to monetary compensation. I find that the Tenants were not entitled to withhold their rent and have breached Section 26 of the *Act*. As such, I find the Landlord has established an entitlement to a monetary award for unpaid rent in the amount of **\$4,293.06**.

Having been successful, I also find the Landlord is entitled to recover the **\$100.00** filing fee paid to make the Application. Further, I find it appropriate in the circumstances to

order that the Landlord is entitled to retain the Tenants' security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$3,855.56, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$4,293.06
Filing fee:	\$100.00
<i>LESS</i> security deposit:	-(<i>\$537.50</i>)
TOTAL:	\$3,855.56

At the end of the hearing, the Landlord's Agents requested to obtain the Tenants' forwarding address. The Tenants indicated that they did not yet have a forwarding address. The Tenants confirmed that their e-mail address is their preferred method of service for documents. The Tenants' email address was confirmed during the hearing and is reflected on the cover page of this decision.

Conclusion

The Landlord is granted a monetary order in the amount of \$3,855.56. The monetary order should be served to the Tenants as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 23, 2021

Residential Tenancy Branch