



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDCL, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for unpaid rent in the amount of \$905.00; for a monetary order for compensation of \$1,016.92 for outstanding utilities costs; and to recover the \$100.00 cost of his Application filing fee.

An agent for the Landlord, J.N. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over 25 minutes and was monitored throughout this time. The only person to call into the hearing was the Agent, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Agent.

I explained the hearing process to the Agent and gave him an opportunity to ask questions about the hearing process. During the hearing the Agent was given the opportunity to provide his evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agent testified that he and the Landlord served the Tenant with the Notice of Hearing documents in person on February 28, 2021, before the Tenant moved out. The Landlord provided a proof of service form, as evidence of service. I find that the Tenant was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Agent in the absence of the Tenant.

Preliminary and Procedural Matters

The Landlord provided his email address in the Application, and the Agent confirmed this in the hearing. The Agent provided the Tenant's email address in the hearing, and he confirmed his understanding that the Decision would be emailed to both Parties and any monetary order would be sent to the Landlord.

At the outset of the hearing, I advised the Agent that he was not allowed to record the hearing, and that if he was recording it, he was required to stop immediately.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

Background and Evidence

The Agent said that the Tenant had been living in the rental unit for a long time – possibly ten years – and that they did not create a new, written tenancy agreement when the first fixed term ended. He confirmed that the tenancy went to a month-to-month basis at that point. The Agent said that the Tenant was responsible to pay the Landlord a monthly rent of \$670.00, due on the first day of each month. The Agent said that the Tenant had paid the Landlord a security deposit of \$250.00, and no pet damage deposit; however, the Agent said that the Tenant, "...wrote a letter saying he wanted to use the security deposit to cover utilities a long time ago." The Agent said that as such, there were no security deposit funds left owing to the Tenant at the end of the tenancy.

The Agent said the tenancy ended, because the Tenant was having trouble paying rent consistently, and because he was disturbing the upstairs neighbour. The Agent said there had been a hearing on this matter.

The Landlord submitted a monetary order worksheet setting out his claim, as follows.

	Receipt From	For	Amount
1	November 27, 2020	Hydro	\$283.78
2	January 28, 2021	Hydro	\$385.80
3	January 27, 2021	Utilities	\$347.34

4	January 1, 2021	Rent	\$235.00
5	February 1, 2021	Rent	\$670.00
		Total	\$1,921.92

The Agent said that the residential property contained an upper unit and a lower unit. The Tenant was in the lower unit and was responsible for 40% of the electricity and utilities for the residential property; he said that another tenant lived in the upper unit, and was responsible for 60% of the electricity and utilities.

The Agent said that this was not written down anywhere; however, he said that the arbitrator in the last hearing assisted the Parties in drafting a Settlement Agreement, which included the following term: "The tenant will pay the landlord a monthly rent (\$670) and utilities (including hydro) for the duration of the tenancy, pursuant to the terms of the tenancy agreement." The Tenant and an advocate were present at that hearing, and therefore, I find that the Tenant's participation in and agreement with the Settlement Agreement is an acknowledgement of his responsibility to contribute to the electricity and utilities bills.

I asked the Agent how long the Tenant has been paying for 40% of the utilities and electricity bills for the residential property. The Agent said: "For awhile; it was on and off, but at least some utilities would go on taxes, but mostly the Hydro bill was paid up."

When I asked the Agent how he had alerted the Tenant to the amount owing on these bills, he said that the bills went directly to the residential property in the Agent's mother's name; however, the tenants were authorized to open these bills for payment. I find this also supports to the conclusion that the Tenant understood his obligations to the Landlord in this regard.

The Landlord submitted an electricity bill dated November 27, 2020, for the residential property. This bill was for services provided from September 25, 2020 through November 25, 2020, and the total owing was \$711.78. I note that 40% of this amount is \$284.71.

The Landlord submitted an electricity bill dated January 28, 2021, for the residential property. This bill was for services provided from November 26, 2020 through January 26, 2021, and the total owing was \$951.76, which included an overdue amount of \$283.78 and a late payment charge of \$4.25.

The Landlord submitted a Utility Bill from the District dated January 27, 2021, for the residential property. This bill was for services provided from September 27, 2020 through January 27, 2021, and the total owing was \$869.34.

The Landlord submitted a copy of a bank statement running from January 1, 2021, through January 29, 2021, and it shows payments from the Tenant to the Landlord of \$215.00 on January 11, 2021, and of \$220.00 on January 28, 2021.

The Agent said that the Tenant did not pay any rent in February 2021.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

I find that the Landlord's undisputed evidence is that the Tenant was responsible for the following costs, but failed to meet these obligations.

	Receipt From	For	Amount Billed	40%	Amount Paid	Amount Owing
1	Nov 27/20	Hydro	\$711.78	\$284.71	\$0.00	\$283.78 ¹
2	Jan 28/21	Hydro	\$947.51 -283.78 ² \$667.98	\$267.19 + \$4.25 late charge	\$0.00	\$271.44
3	Jan 27/21	Utilities	\$869.34	\$347.74	\$0.00	\$347.74
4	Jan 01/21	Rent	\$670.00	n/a	\$435.00	\$235.00
5	Feb 01/21	Rent	\$670.00	n/a	\$0.00	\$670.00
					Total	\$1,807.96
1. Amount Landlord claimed 2. Already claimed in prior amount.						

I find that the Tenant owes the Landlord \$1,807.96 in electricity, utilities, and rent arrears, and I award the Landlord with **\$1,807.96** from the Tenant, pursuant to section 67 of the Act. Given his success in this Application, I also award the Landlord with recovery of the **\$100.00** Application filing fee, pursuant to section 72 of the Act. I grant the Landlord a Monetary Order of **\$1,907.96** from the Tenant, pursuant to these awards.

Conclusion

The Landlord is successful in his Application for compensation from the Tenant for unpaid electricity, utilities, and rent, as outlined above, in the amount of \$1,807.96. I also award the Landlord with recovery of the \$100.00 Application filing fee.

I grant the Landlord a Monetary Order of **\$1,907.96** from the Tenant pursuant to section 67 of the Act. This Order must be served on the Tenant by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: July 12, 2021

Residential Tenancy Branch