



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on December 9, 2021. The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- permission to retain the security deposit to offset the rent owed; and,
- to recover the filing fee from the Tenant for the cost of this application.

The Landlords and the Tenant both attended the hearing and provided affirmed testimony. The Tenant did not submit any documentary evidence for the hearing. The Tenant confirmed receipt of the Landlord's Notice of Hearing and evidence package. No issues were raised with respect to service. I find the Landlord sufficiently served the Tenant for the purposes of this proceeding.

Both parties were provided 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. Are the Landlords entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

A copy of the tenancy agreement was provided into evidence, which shows that monthly rent was set at \$1,410.00 and was due on the first of the month. The Landlords collected, and still hold a security deposit in the amount of \$600.00.

The Tenant claimed that rent was only \$1,200.00. However, she did not provide any further explanation or corroborating evidence to show that rent was only \$1,200.00, rather than \$1,410.00. The Tenant agrees she signed the copy of the tenancy agreement provided into evidence, which lists rent as \$1,410.00.

The Landlords explained that there were issues with non-payment of rent for many months leading up to the end of the tenancy. The Landlords filed this application and indicated they were seeking \$7,250.00 in unpaid rent. The Landlords indicated this amount was for \$200.00 in unpaid rent from January 2021, and \$1,410.00 in unpaid rent for each month from February – June 2021. The Tenant does not dispute that she failed to pay these amounts, and stated it was because she lost her job, and has yet to receive her subsidy payments. The Tenant confirmed that she moved out on or around July 2, 2021, after several months of not paying rent.

The Landlords confirmed that they applied for a previous dispute resolution with the Tenant in the Spring of 2021, and they were awarded a monetary order for \$1,410.00 for February 2021 rent. During the hearing, the Landlords were informed that since that amount has already been awarded, that it would be removed from this claim.

Analysis

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

Section 26 of the *Act* confirms that a Tenant must pay rent when it is due unless the Tenant has a right under the *Act* to deduct all or a portion of rent (security deposit overpayment, emergency repairs paid for by the Tenant, illegal rent increases, or another Order by an Arbitrator).

As the tenancy is now over, it is not necessary to consider whether or not the rent was “affected rent” and whether or not a repayment plan was given to the Tenant.

With respect to the Landlord’s request for a Monetary Order for unpaid rent, I find there is sufficient evidence from the Landlord’s documentary evidence and testimony before

me to demonstrate that the Tenant owes and has failed to pay \$200.00 in rent for January 2021, and also failed to pay \$1,410.00 in rent for 5 months, from February 2021 – June 2021. Rent was due, and payable, as per the tenancy agreement, in the amount of 1,410.00 per month, and it does not appear this amount was ever changed or modified by way of a new agreement, despite the Tenant's claims it was less than this. The Tenant provide no evidence to support that rent was less than the amount on the tenancy agreement. I award the Landlords' claim, in full, less \$1,410.00 for February 2021, as this amount was already awarded in a previous monetary order.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the landlord was substantially successful in this hearing, I order the tenant to repay the \$100. Also, pursuant to sections 72 of the *Act*, I authorize that the security deposit, currently held by the landlord, be kept and used to offset the amount of rent still owed by the tenant. In summary, I grant the monetary order based on the following:

| Claim | Amount |
|--|-------------------|
| Unpaid rent | \$5,840.00 |
| Filing fee | \$100.00 |
| Less: Security Deposit currently held by Landlord | (\$600.00) |
| TOTAL: | \$5,340.00 |

Conclusion

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$5,340.00** comprised of rent owed. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: December 09, 2021

Residential Tenancy Branch