



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord attended the hearing and was accompanied by a property manager, who did not testify or take part in the hearing. The landlord's agent gave affirmed testimony and evidentiary material has been provided. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the Notice of Dispute Resolution and other required documents, in addition to the evidence, by registered mail on September 3, 2021 to a forwarding address provided by the tenant. The landlord has also provided a Canada Post cash register receipt bearing that date, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for unpaid rent or utilities?
- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Residential Tenancy Act*,

regulation or tenancy agreement, and more specifically for parking, liquidated damages and loss of rental revenue?

Background and Evidence

The landlord's agent (hereafter referred to as the landlord) testified that this fixed-term tenancy began on June 15, 2021 and was to revert to a month-to-month tenancy after June 30, 2022, however the tenant vacated the rental unit on or about July 30, 2021. Rent in the amount of \$2,145.00 was payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$1,072.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment suite in a complex containing 3 buildings, and a copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that the landlord put a notice on the door of the rental unit on July 29, 2021 to inspect the rental unit, which was effective on July 30, 2021. The landlord entered and found the rental unit vacant, with no possessions of the tenant inside.

The landlord has provided a Monetary Order Worksheet setting out the following claims, totaling \$7,208.78:

- \$123.78 for water utilities;
- \$2,195.00 for an NSF report;
- \$500.00 for Liquidated Damages; and
- \$4,390.00 for 2 months of lost revenue.

The tenancy agreement does not include water utilities, and a copy of a water bill in the amount of \$123.78 for the month of July, 2021 has been provided for this hearing.

The NSF report of the landlord is for the amount of rent unpaid for July, 2021 and an additional \$50.00 for parking, which is contained in the Addendum, however a copy of the Addendum has not been provided for this hearing.

The tenancy agreement also specifies Liquidated Damages of \$500.00, not as a penalty, for all costs associated with re-renting if the tenant breaches the tenancy agreement by moving out prior to the end of the fixed term.

The landlord also testified that the rental unit remained vacant for 3 months, however the landlord claims 2 months of loss of rental revenue and parking. The landlord

advertised the rental unit for rent on or about August 1, 2021 on Craigslist, the landlord company's website and other websites, but copies have not been provided.

Analysis

I have reviewed the landlord's evidence, and considering the testimony of the landlord, I am satisfied that the tenant vacated the rental unit prior to the end of the fixed term without paying rent for the last month of the tenancy, and the landlord is entitled to recovery of \$2,145.00 for unpaid rent. Since there is no Addendum, I am not satisfied that the landlord has established a claim for \$50.00 of parking fees.

The tenancy agreement provides for a \$25.00 fee for late payment or NSF cheques in addition to any service fees charged by a financial institution to the landlord. The landlord has not provided any evidence of service fees charges, and I find that the landlord is entitled to recovery of the late payment fee of \$25.00.

I have also reviewed the water bill, and I find that the landlord has established a claim of \$123.78 for utilities.

The tenancy agreement clearly sets out liquidated damages if the tenant causes the tenancy to end prior to June 30, 2022 in the amount of \$500.00. I accept the undisputed testimony of the landlord that the tenant vacated the rental unit without notice to the landlord in July, 2021, and I find that the landlord is entitled to the \$500.00 claim for liquidated damages.

Where a landlord claims loss of rental revenue, the landlord must establish when and how the rental unit was advertised in order to prove mitigation. In this case, the landlord has not provided any evidence of advertising, and I dismiss the landlord's claim for loss of rental revenue.

Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee.

Having found that the landlord has established claims of \$2,145.00 for unpaid rent, \$25.00 for late payment of July's rent, \$123.78 for utilities, \$500.00 for liquidated damages, and recovery of the \$100.00 filing fee, I order the landlord to keep the \$1,072.00 security deposit in partial satisfaction, and I grant a monetary order in favour of the landlord as against the tenant for the difference of \$1,821.78 ($\$2,145.00 + \$25.00 + \$123.78 + \$500.00 + \$100.00 = \$2,893.78 - \$1,072.00 = \$1,821.78$).

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$1,072.00 security deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,821.78.

This order is final and binding and may be enforced.

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: February 28, 2022

Residential Tenancy Branch