



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, MNRL, FFL

Introduction

The Landlord applies for the following relief under the *Residential Tenancy Act* (the “Act”):

- A monetary order pursuant to s. 67 for damages caused the Tenant to the rental unit;
- A monetary order pursuant to s. 67 for unpaid rent; and
- Return of their filing fee pursuant to s. 72.

W.W. appeared as agent for the Landlord. L.S. appeared as an assistant to W.W. and gave no oral submissions.

The Tenant did not appear, nor did someone appear on their behalf. Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Tenant did not attend, the hearing was conducted in their absence as permitted by Rule 7.3 of the Rules of Procedure.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

Prior to the hearing, the Landlord applied for an order for substitutional service. The Landlord’s request was granted by an adjudicator with the Residential Tenancy Branch on October 14, 2022, permitting the Landlord to serve the Tenant via email.

The Landlord’s agent advised that the Notice of Dispute Resolution and the evidence was sent to the Tenant’s email sometime in October 2021 after the substitutional

service order was granted. Based on the oral submissions from the Landlord's agent, I find that the Landlord's application materials were served in accordance with s. 89 of the *Act*.

Issue(s) to be Decided

- 1) Is the Landlord entitled to a monetary order to compensate for damages caused by the Tenant? If so, in what amount?
- 2) Is the Landlord entitled to a monetary order for unpaid rent? If so, in what amount?
- 3) Is the Landlord entitled to the return of its filing fee?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issue in dispute will be referenced in this decision.

The Landlord's agent confirmed the following details of the tenancy:

- The Tenant took occupancy of the rental unit on October 1, 2020.
- The Landlord received vacant possession of the rental unit on July 31, 2021.
- Rent of \$2,000.00 was due on the first day of each month.
- No security deposit or pet damage deposit was paid by the Tenant.

A copy of a written tenancy agreement was put into evidence by the Landlord. The tenancy agreement provides that the Tenant was responsible for paying the utilities.

The Landlord, as listed in the tenancy agreement, is different than that as listed in the style of cause for this Landlord's application. The Landlord's agent advised that Landlord listed in the tenancy agreement is the sole shareholder of the corporate Landlord listed in the application.

The Landlord's agent indicates that the Tenant and the Landlord had agreed to end the tenancy on July 15, 2021. However, this did not occur as planned as the Tenant's roommates continued to occupy the rental unit. As mentioned above, the Landlord obtained vacant possession of the rental unit on July 31, 2021.

The Landlord's agent indicates that the Tenant failed to pay rent in June 2021 and owed \$357.00 for rent in May 2021. The Landlord claims unpaid rent of \$2,616.00 in its monetary order worksheet, though at the hearing the Landlord's agent clarified that the amount listed in the monetary order worksheet included utility claims. The Landlord's agent advanced an unpaid rent claim of \$2,357.00 at the hearing.

The Landlord advances claims for unpaid utilities. The monetary order worksheet lists the following amounts that are claimed:

- Water: \$261.25
- Natural Gas: \$98.55
- Hydro: \$203.61

These amounts are supported by invoices that were put into evidence by the Landlord. The Landlord's evidence also includes emails with the Tenant in which these amounts were requested from the Tenant.

The Landlord also advances claims with respect to cleaning the rental unit after it obtained vacant possession. Though no pictures were provided, the Landlord's agent advised that there was a significant amount of garbage and items left behind in the rental unit. The Landlord's agent further indicates that this may have been the result of the Tenant's roommates and not necessarily caused by the Tenant himself. The monetary order worksheet claims an amount of \$243.52 for cleaning costs and \$1,624.35 for garbage bin removal.

Invoices provided by the Landlord indicate that labour cost for cleaning the rental unit was \$243.52. Two garbage bin disposal fee invoices were also provided, one for \$577.50 and the other for \$850.50, which total \$1,428.00.

The Landlord provides a copy of the move-in inspection report and no move-out inspection report. The Landlord's agent indicates that he attempted to arrange a move-out inspection after the end of the tenancy but that the Tenant refused to participate. These requests were done orally. No written requests to arrange a move-out inspection were made. The Landlord's agent admits no move-out inspection was conducted in the Tenant's absence.

The Landlord's agent further indicates that the Landlord has not received the Tenant's forwarding address.

Analysis

The Landlord seeks compensation for damages caused by the Tenant and for unpaid rent.

Under s. 67 of the *Act*, the Director may order that a party compensate the other if damage or loss result from that party's failure to comply with the *Act*, the regulations, or the tenancy agreement. Policy Guideline #16 sets out that to establish a monetary claim, the arbitrator must determine whether:

1. A party to the tenancy agreement has failed to comply with the *Act*, the regulations, or the tenancy agreement.
2. Loss or damage has resulted from this non-compliance.
3. The party who suffered the damage or loss can prove the amount of or value of the damage or loss.
4. The party who suffered the damage or loss mitigated their damages.

The applicant seeking a monetary award bears the burden of proving their claim.

I accept the undisputed evidence of the Landlord that rent under the tenancy agreement was due in the amount of \$2,000.00 per month and that the Tenant was in arrears in rent in the amount of \$357.00 for May 2021 and failed to pay rent altogether in June 2021. I accept the submissions from the Landlord's agent that the amount listed in the monetary order worksheet for unpaid rent was in error and that the amount for unpaid rent was \$2,357.00. I note that s. 26 of the *Act* imposes an obligation on a tenant to pay rent, regardless of whether the landlord complies with the *Act*, Regulations, and/or the tenancy agreement.

I find that the Tenant breached his obligations to pay rent under the tenancy agreement and in contravention of the obligations imposed by the contract and s. 26 of the *Act*. I further find that the Landlord has established a claim for unpaid rent in the amount of \$2,357.00. The Landlord could not have mitigated their loss under the circumstance as the Tenant continued to occupy the rental unit.

I further accept that the Landlord's claim for unpaid utilities in the amounts listed in its monetary order worksheet. The tenancy agreement clearly specifies that it is the Tenants obligation to pay water, electricity, and natural gas. The Landlord provides bills for these accounts, which correspond with the rental unit and the relevant timeframe. I

accept the Landlord's evidence that the Tenant failed to pay these amounts and that the Landlord requested that the utilities be paid, as evidenced in the correspondence provided by the Landlord. The Landlord could not have mitigated their damages under the circumstances.

I find that the Landlord has established a claim for compensation in the following amounts for unpaid utilities:

- Water: \$261.25
- Natural Gas: \$98.55
- Electricity: \$203.61

TOTAL UTILITIES: \$563.41

I further accept the uncontradicted evidence of the Landlord that the Tenant left the rental unit in a state of uncleanliness when the tenancy ended. I note that s. 32(2) of the *Act* imposes an obligation on tenants to maintain reasonable health, cleanliness, and sanitary standards throughout the rental unit. Further, s. 32(3) requires a tenant to repair damage to the rental unit caused by the actions or neglect of the tenant or by persons permitted on the property by the Tenant. The fact that garbage may have been left at the rental unit by the roommates is not material given the obligations imposed on the Tenant by the tenancy agreement and s. 32 of the *Act*. I find that the Tenant left the rental unit in an unclean state and breached his obligations under s. 32 of the *Act*.

I pause to consider the effect of there being no move-out inspection. I note that s. 36(2) would apply such that the Landlord's right to claim against the security deposit would be extinguished for failing to conduct a move-out inspection report as required by s. 35. However, this point is not material to this dispute as there is no security deposit as none had been paid by the Tenant. The lack of a move-out inspection report does not bar a landlord from claiming for damages they say were caused by the Tenant.

I note the discrepancy between the amounts listed in the Landlord's monetary order worksheet for the garbage bin disposal and the amount supported by the invoices. I find that the Landlord has quantified their claim with respect to the garbage bin disposal for no more than as is supported by the invoices provided by the Landlord.

I accept the Landlord's evidence in the form of the invoices that Landlord incurred the following expenses with respect to cleaning the rental unit at the end of the tenancy and find that they have quantified their claim in the following amounts:

- Labour costs for cleaning: \$243.52
- Garbage Bin Disposal: \$850.50
- \$577.50

TOTAL CLEANING COSTS: \$1,671.52

Combining the amounts listed above, I find that the Landlord has established a global monetary claim in the following amount:

Item	Amount
Unpaid Rent	\$2,357.00
Unpaid Utilities	\$563.41
Cleaning Costs	\$1,671.52
TOTAL MONETARY CLAIM	\$4,591.93

As the Landlord was successful in their application, I further find that they are entitled to the return of their filing fee and order, pursuant to s. 72, that the Tenant pay \$100.00 to the Landlord.

Conclusion

The Landlord has established a monetary claim for unpaid rent, utilities, and damages in the total amount of \$4,591.93.

As the Landlord was successful in their application, I order that the Tenant pay the Landlord's \$100.00 filing fee.

Pursuant to s. 67 of the *Act*, I order that the Tenant pay **\$4,691.93** to the Landlord, representing the combined total of the monetary claim and the filing fee.

It is the Landlord's obligation to serve the monetary order on the Tenant. If the Tenant does not comply with the monetary order, it may be filed by the Landlord with 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: April 27, 2022

Residential Tenancy Branch