



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, MNDCL-S, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent or utilities - Section 67;
2. An Order of Possession - Section 55; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. The Tenant moved out of the unit on February 15, 2021 and provided their forwarding address to the Landlord in early February 2022. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) to the forwarding address by registered mail on February 17, 2022 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Hearing Package on February 22, 2022.

The Landlords were given full opportunity under oath to be heard, to present evidence and to make submissions. As the tenancy has ended with the Tenant moving out of the unit, I dismiss the claim for an order of possession.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy under written agreement started on August 15, 2018 and ended on February 15, 2022. Rent of \$3,795.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected a security deposit of \$1,850.00. On August 9, 2021 the Tenant was given a two month notice to end tenancy for landlord's use dated August 4, 2021 (the "Notice"). The Notice sets out an effective date of October 31, 2021. On October 19, 2021 the Parties signed a mutual agreement extending the move out date to January 31, 2021.

The tenancy agreement does not include water and sewer with the rent. The Tenant did not pay this utility for the period April 1, 2021 to and including January 30, 2021 in the amount of \$1,097.54. The Landlord claims this cost and provides the invoices for the period April 1, 2021 to September 2021 as supporting evidence of these costs. The Landlord also provides an email from the Tenant setting out utility costs additional to this period as supporting evidence of the cost.

The Tenant did not pay rent for February 2022 and the Landlord claims \$2,033.03 calculated on a per diem of \$135.53 for 15 days.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Based on the Landlord's undisputed evidence of rents and utilities payable under the tenancy agreement and the

evidence of unpaid rents and utilities I find that the Landlord has substantiated an entitlement to a total amount of **\$3,130.57**. As the Landlord's claims have been successful, I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$3,230.57**. Deducting the security deposit plus zero interest of **\$1,850.00** leaves **\$1,380.57** owed to the Landlord.

Conclusion

I order that the Landlord retain the **deposit** and interest of **\$1,850.00** in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,380.57**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: May 10, 2022

Residential Tenancy Branch