



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL, FFL

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on April 10, 2022, wherein the Landlord sought monetary compensation from the Tenant in the amount of \$4,174.37, including recovery of the filing fee, and authority to retain the Tenant's security deposit towards any amounts awarded.

The hearing of the Landlord's Application was scheduled for 1:30 p.m. on December 13, 2022. Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me.

The parties were cautioned that private recordings of the hearing were not permitted pursuant to *Rule 6.11* of the *Residential Tenancy Branch Rules*. Both parties confirmed their understanding of this requirement and further confirmed they were not making recordings of the hearing.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised. I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to compensation for unpaid rent and utilities?

2. Should the Landlord recover the filing fee?
3. Should the Landlord be authorized to retain the Tenant's security deposit towards any amounts awarded?

Background and Evidence

In support of their claim the Landlord testified as follows. This tenancy began February 1, 2022. Monthly rent was \$2,500.00 and the Tenant paid a \$1,250.00 security deposit. The tenancy agreement provided that the Tenant was also to pay 1/3 of all utilities.

The Landlord sought compensation for unpaid rent for March and April in the amount of \$2,500.00 per month. The Landlord stated that the Tenant did not give proper written notice to end her tenancy. She further stated that she became aware that the Tenant was possibly moving out at the end of February 2022 but did not realize the Tenant was permanently leaving until March 15, 2022. The Landlord testified that she was able to re-rent the rental unit for May 1, 2022, as such she sought the sum of \$5,000.00 representing two months of unpaid rent.

The Landlord also sought \$183.62 for the February utilities and \$157.03 for the March utilities.

The Landlord also sought compensation for the filing fee.

In response to the Landlord's claims the Tenant confirmed that she gave notice to end her tenancy by text message at the end of February 2022. The Tenant confirmed that she did not give formal written notice.

The Tenant claimed that she vacated the unit as of March 6, 2022. The Tenant confirmed that she gave the Landlord authority to retain her security deposit because she acknowledged she was not giving the Landlord proper notice to end her tenancy.

The Tenant confirmed that she was responsible for paying a portion of the utilities, but stated that she did not pay the utilities as she could not afford it.

Analysis

A tenant may end a tenancy provided that the notice complies with sections 45 and 52 of the *Act*, which provide as follows:

Tenant's notice

- 45** (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that
- (a) is not earlier than one month after the date the landlord receives the notice, and
 - (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.
- (2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that
- (a) is not earlier than one month after the date the landlord receives the notice,
 - (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
 - (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.
- (3) If a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.
- (4) A notice to end a tenancy given under this section must comply with section 52 [*form and content of notice to end tenancy*].

Form and content of notice to end tenancy

- 52** In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
 - (b) give the address of the rental unit,
 - (c) state the effective date of the notice,
 - (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form.

It was undisputed that the Tenant did not provide written notice to end the tenancy; accordingly, she did not end the tenancy in accordance with the *Act*. I accept the Landlord's testimony that she was not aware the Tenant was vacating the rental unit until March 6, 2022 when the Tenant vacated the unit. I also accept the Landlord's testimony that she attempted to re-rent the unit as soon as possible but was not able to do so until May 1, 2022. I find the Landlord is entitled to recover the March and April rent in the amount of \$5,000.00.

The tenancy agreement provided the Tenant was to pay 1/3 of the utilities. The Tenant conceded this was her responsibility but stated she was unable to pay as she could not afford them. I therefore award the Landlord the \$183.62 claimed for the February utilities and the \$157.03 for the March utilities.

As the Landlord has been successful in her Application, I also award her recovery of the filing fee in the amount of \$100.00.

I also grant the Landlord's request to retain the Tenant's security deposit towards the amounts awarded.

Conclusion

The Landlord is entitled to monetary compensation in the amount of **\$ 5,440.65** for the following:

Unpaid rent for March 2022	\$2,500.00
Unpaid rent for April 2022	\$2,500.00
Unpaid utilities for February 2022	\$183.62
Unpaid utilities for March 2022	\$157.03
Filing fee	\$100.00
TOTAL AWARDED	\$5,440.65

Pursuant to section 72 of the *Act* I authorize the Landlord to retain the Tenant's \$1,250.00 security deposit towards the amounts awarded and I grant the Landlord a Monetary Order for the balance due in the amount of **\$4,190.65**. This Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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 20, 2022

Residential Tenancy Branch