



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

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. An Order to retain the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the amounts claimed?

Background and Evidence

The tenancy began on October 1, 2010 for a fixed term to September 30, 2011. The Tenant gave notice and moved out of the unit on June 30, 2011. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$575.00. The Tenant moved out before the end of the fixed term and the lease agreement contains a term on liquidated damages in the amount of \$300.00. The Landlord claims this amount as the Tenant has ended the tenancy before the end of the term.

Analysis

Given the undisputed evidence of the Landlord that the Tenant ended the tenancy before the effective date of the tenancy agreement and considering the term on liquidated damages contained in the tenancy agreement, I find that the Landlord is entitled to the amount of \$300.00 in liquidated damages. The Landlord is also entitled to recovery of the \$50.00 filing fee for a total entitlement of \$350.00. As the Landlord holds the Tenant's security deposit, I order the Landlord to retain the amount of \$350.00 from the security deposit plus interest of \$575.00 and return the remaining amount of \$225.00 to the Tenant forthwith.

Conclusion

I order that the Landlord retain the amount of \$350.00 from the **deposit** and interest of \$575.00 in satisfaction of the claim and I grant the Tenant an order under Section 67 of the Act for the remaining amount of **\$225.00**. 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 *Residential Tenancy Act*.

Dated: October 26, 2011.

Residential Tenancy Branch