



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in repose to the landlord's application for a Monetary Order for unpaid rent; for an Order permitting the landlord to keep all or part of the tenants' security deposit; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, and was served in person to the tenant on June 07, 2012.

The landlord's agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order of unpaid rent?
- Is the landlord entitled to keep the tenants security deposit?

Background and Evidence

The landlord's agent declares that this tenancy started on July 01, 2011. This was a fixed term tenancy which was not due to expire until June 30, 2012. The tenant moved from the rental unit on June 08, 2012. Rent for this unit was \$1,290.00 per month and was due on the 1st day of each month in advance. The tenant paid a security deposit of \$600.00 on July 01, 2011.

The landlord's agent testifies that the tenant sent the landlord an e-mail on May 23, 2012 giving notice to end the tenancy as the tenant was being transferred to another city with his work. The landlord's agent testifies that the tenant was a model tenant but will not now acknowledge that the Residential Tenancy Act applies to the tenant with regard to fixed term tenancies.

The landlord's agent testifies that they started to advertise the unit straight away and the tenant was accommodating regarding the viewings for potential tenants. The unit was not re-rented until August 01, 2012.

The landlord's agent testifies that the tenant did pay \$344.00 on June 01, 2012 and the tenant informed the land lord that this payment was for the eight days of the tenancy in June. The landlord seeks to recover the balance of rent for June of \$946.00.

The landlord also requests an Order to keep the security deposit of \$600.00 to offset against the unpaid rent and seeks to recover the \$50.00 filing fee.

The landlord has provided a copy of the tenancy agreement and the e-mail exchange between the landlord and tenant in evidence.

Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and affirmed testimony before me.

Section 45(2) of the Act states:

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.

It is my decision that the tenant ended the tenancy before the end of the fixed term and the landlord is entitled to recover rent arrears for June, 2012 of **\$946.00** pursuant to s. 67 of the *Act*.

I order the landlord pursuant to s. 38(4)(b) of the Act to keep the tenant's security deposit of **\$600.00** in partial payment of the rent arrears.

As the landlord has been successful with this claim I find the landlord is entitled to recover the **\$50.00** filing fee from the tenant pursuant to section 72(1) of the *Act*.

The landlord will receive a monetary order for the balance owing as follows:

Outstanding rent for June, 2012	\$946.00
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Less security deposit	(-\$600.00)
Plus filing fee	\$50.00
Total amount due to the landlord	\$396.00

Conclusion

I HEREBY FIND in favor of the landlords' monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$396.00**. The order must be served on the tenant and is enforceable through the Provincial Court 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: August 03, 2012.

Residential Tenancy Branch