



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) by the landlord to for a monetary order for unpaid rent, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, authorization to keep all or part of a security deposit and pet damage deposit, and to recover the cost of the filing fee.

The landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the “Notice”) was considered. The landlord provided affirmed testimony that the Notice was served on the male tenant in person on August 24, 2012 at 7:27 p.m. at the rental unit, which was witnessed by a third party. Based on the undisputed testimony of the landlord, I find that male tenant was served in accordance with the *Act*.

Preliminary and Procedural Matter

As the landlord has only served the male tenant, the female tenant was removed as a respondent to this proceeding as the rental unit is now vacant and the application is for a monetary order only.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*?
- What should happen with the security deposit and pet damage deposit?

Background and Evidence

The landlord testified that a fixed term tenancy agreement began on November 1, 2011 and was to expire on October 31, 2012. Rent was due on the first day of each month in the amount of \$1,800.00. The tenants paid \$900.00 as a security deposit and \$900.00 as a pet damage deposit at the start of the tenancy. The tenants vacated the rental unit on August 31, 2012.

The landlord testified that the tenants failed to pay rent for July 2012 in the amount of \$1,800.00 and for August 2012 in the amount of \$1,800.00. The landlord is also seeking a late fee of \$25.00 for the months of July and August 2012 as provided for under clause 10 of the tenancy agreement, entitled "Arrears".

Analysis

Based on the documentary evidence and the landlord's undisputed oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Claim for unpaid rent and late fees – The landlord testified that July and August 2012 rent was never paid by the tenants resulting in rent arrears of \$3,600.00. In addition, the landlord stated that the tenants owe late fees for the months of July and August 2012 at \$25.00 per month for a total of \$50.00.

Pursuant to section 26 of the *Act* tenants must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenants have failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. **I find** the landlord has met the burden of proof and **I grant** the landlord a monetary claim of **\$3,650.00** comprised of \$1,800.00 for July 2012 unpaid rent, \$1,800.00 for August 2012 unpaid rent and \$25.00 for the late fees for the months of July and August 2012.

As the landlord has succeeded with their application; **I grant** the landlord recovery of the **\$50.00** filing fee.

Monetary Order – I find that the landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenants' security deposit and pet damage deposit which have accrued no interest as follows:

July 2012 unpaid rent	\$1,800.00
July 2012 late fee	\$25.00
August 2012 unpaid rent	\$1,800.00

August 2012 late fee	\$25.00
Filing fee	\$50.00
Subtotal	\$3,700.00
Less \$900.00 security deposit and \$900.00 pet damage deposit	(\$1,800.00)
TOTAL AMOUNT OWING TO LANDLORD	\$1,900.00

Conclusion

I find that the landlord has established a total monetary claim of \$3,700.00. **I authorize** the landlord to retain the full security deposit of \$900.00 and pet damage deposit of \$900.00 in partial satisfaction of the claim. **I grant** the landlord a monetary order under section 67 for the balance due of **\$1,900.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 07, 2012

Residential Tenancy Branch