



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MN, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67.

I accept that the tenant was properly served with the Application for Dispute Resolution hearing package by way of registered mail. The landlord testified that he obtained information from Canada Post stating that the tenant picked up the registered mail although she did not appear at the hearing.

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

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Is the landlord entitled to the Order sought?

Background and Findings

Monetary Order

The landlord testified that the tenant's rent cheque for August 1, 2012 in the sum of \$1,360.00 was returned by her bank due to insufficient funds. The landlord says the tenant vacated on August 28, 2012 which was the end of the fixed term tenancy. The landlord says the tenant told him he could keep her security deposit of \$637.50 and that she would send him the rest of the monies owing. The landlord said that in addition to the rent the tenant owed \$100.00 as an agreed upon move-out fee and the landlord incurred a \$25.00 charge with respect to the tenant's NSF cheque. The landlord is therefore claiming these sums as well.

Security Deposit

Although the landlord says that he has the tenant's agreement allowing him to retain the security deposit, this agreement was not provided in writing. However, Section 72 of the *Residential Tenancy Act* states as follows:

Director's orders: fees and monetary orders

72 (1) The director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.

(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

In accordance with Section 72(2)(b) I will allow the landlord to retain the security deposit paid by the tenant in partial satisfaction of this claim.

Filing Fees

As the landlord has been successful in this application I find that the landlord is entitled to recover the filing fees paid for this application.

Calculation of Monetary Award in Favour of the Landlord

Rental Arrears For August 2012	\$1,360.00
Move Out Fee	100.00
NSF Charges	25.00
Filing Fees for the cost of this application	50.00
Less Security Deposit (no interest accrued)	-637.50
Total Monetary Award	\$897.50

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This is a final and binding Order enforceable as any Order of the Provincial Court of British Columbia.

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.

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: January 16, 2013

Residential Tenancy Branch

