



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNSD FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for unpaid rent or utilities, authorization to retain the tenant's security deposit and to recover the filing fee.

The agent for the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent 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 hearing.

The tenant did not attend the hearing. As a result, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agent testified that the tenant was served with the Notice by registered mail on January 25, 2013. The agent provided a registered mail tracking number in evidence and confirmed the name and address for the tenant on the registered mail package which contained the landlord's evidence matched the name and address provided by the tenant on the move-out condition inspection report. The move-out condition inspection report was submitted in evidence.

Documents served by registered mail are deemed served five days after mailing under the *Act*. In accordance with section 90 of the *Act*, I deem the tenant to have been sufficiently served under the *Act*.

Preliminary Matter

During the hearing, the agent requested to withdraw their claim for carpet cleaning, thereby reducing the landlord's monetary claim to \$1,300.00 for unpaid rent, plus their request for the recovery of the filing fee.

Issues to be Decided

- Is the landlord entitled to a monetary order for unpaid rent or utilities under the *Act*?
- What should happen to the tenant's security deposit under the *Act*?

Background and Evidence

The landlord submitted a copy of the tenancy agreement in evidence. A fixed term tenancy began on November 1, 2012 and was to expire on October 31, 2013. Monthly rent in the amount of \$775.00 was due on the first day of each month. The tenant paid a security deposit of \$100.00 at the start of the tenancy. The agent stated that the tenant was supposed to pay \$387.50 but only paid \$100.00.

The agent stated that the tenant vacated the rental unit on January 22, 2013 after being issued a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") which the tenant did not dispute. The landlord is seeking \$1,300.00 for unpaid rent comprised of \$525.00 owing from November 2012 rent, and \$775.00 owing from January 2013 rent. The agent stated that the landlord was able to re-rent the rental unit for February 2013 so is not seeking loss of rent for February 2013 as a result.

The tenant provided his forwarding address on the move-out condition inspection report dated January 22, 2013. The landlord applied for dispute resolution claiming towards the security deposit and unpaid rent on January 24, 2013.

The landlord submitted the 10 Day Notice, tenancy agreement, tenant ledger, condition inspection report, and carpet cleaning receipt in evidence.

Analysis

Based on documentary evidence and undisputed testimony of the agent provided during the hearing, and on the balance of probabilities, I find the following.

Claim for unpaid rent – The agent for the landlord testified that the tenant failed to pay \$525.00 of November 2012 rent, and did not pay any of the \$775.00 rent due for January 2013. The landlord is seeking \$1,300.00 in unpaid rent as a result.

Pursuant to section 26 of the *Act* a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, **I find** that the tenant 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 by establishing a monetary claim of **\$1,300.00** for unpaid rent comprised of \$525.00 owing from November 2012 and \$775.00 owing from January 2013.

The tenant's security deposit of \$100.00 has accrued no interest since the start of the tenancy. The agent stated that the tenant provided his forwarding address on January 22, 2013 on the move-out condition inspection report. The landlord filed for dispute resolution claiming towards the security deposit and unpaid rent on January 24, 2013.

As the landlord was successful with their application, **I grant** the landlord the recovery of the filing fee in the amount of **\$50.00**.

Monetary Order – I find that the landlord has established a total monetary claim in the amount of **\$1,350.00** comprised of \$1,300.00 in unpaid rent, and \$50.00 for the filing fee. This claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenant's security deposit. **I authorize** the landlord to retain the tenant's full security deposit of \$100.00 in partial satisfaction of the claim and **I grant** the landlord a monetary order under section 67 for the balance due of **\$1,250.00**.

Conclusion

I find that the landlord has established a total monetary claim of \$1,350.00. **I authorize** the landlord to retain the tenant's full security deposit of \$100.00 in partial satisfaction of the claim and **I grant** the landlord a monetary order under section 67 for the balance due of **\$1,250.00**. This order must be served on the tenant and 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: April 16, 2013

Residential Tenancy Branch

