



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Goodrich Realty Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:51 a.m. in order to enable him to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The female landlord (the landlord) testified that she sent the tenant a copy of the landlord's dispute resolution and written evidence packages by registered mail. However, she did not have the date of this registered mailing or the Canada Post Tracking Number available to confirm this mailing. She also testified that one of her colleagues also handed a copy of the above packages to the tenant on March 26, 2013, although the tenant refused to sign a document provided to him by her colleague to confirm his receipt of these packages.

As I was not satisfied by the landlord's third party testimony regarding the service of this package, I obtained the landlord's colleague's (the colleague's) phone number and contacted the colleague who provide sworn testimony at this hearing. The colleague testified that he handed the tenant a copy of the dispute resolution hearing package which included a copy of the Residential Tenancy Agreement (the Agreement) to the tenant at approximately 1:20 p.m. on March 26, 2013. He said that he was certain of the details regarding his service of these documents to the tenant because he wrote himself an electronic note of this incident which he referred to during his sworn testimony. Based on the sworn testimony of the colleague and to a lesser extent the

landlord, I find that the tenant was served with the landlord's dispute resolution hearing package, including notice of this hearing, in accordance with the *Act* on March 26, 2013.

At the commencement of this hearing, the landlord testified that she had submitted written evidence by fax to the Residential Tenancy Branch (the RTB) when she applied for dispute resolution. As the RTB has no record of any written evidence from the landlord, other than the Details of the Dispute as set out in the landlord's application, I have not considered any of the written evidence that the landlord maintained was sent to the RTB prior to this hearing with the exception of the landlord's application for dispute resolution.

The landlord testified that the tenant has failed to pay any rent since the landlord applied for dispute resolution. On this basis, the landlord requested a \$6,400.00 increase in the amount of her monetary award to reflect unpaid rent owing for May and June 2013. I agreed to revise the landlord's application accordingly to reflect the current state of the outstanding rent claimed by the landlord.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to a monetary award for damages arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's deposits in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this fixed term tenancy commenced on January 27, 2013. The tenancy is scheduled to end by July 31, 2013. Monthly rent for this furnished rental unit is set at \$3,200.00, payable in advance on the first of each month. The landlord testified that the landlord continues to hold the tenant's \$1,600.00 security deposit and \$135.00 key deposit both paid shortly before the tenancy began.

The landlord's original application for a monetary award of \$8,406.20 identified the following items:

Item	Amount
Unpaid March 2013 Rent	\$3,200.00
March 2013 Late Fee	25.00
March 2013 N.S.F. Fee	25.00
Unpaid April 2013 Rent	3,200.00
Re-Renting Fee	1,792.00

Credit Report	39.20
Advertising Fee	125.00
Total Monetary Order Requested	\$8,406.20

The landlord testified that this tenancy continues, although the last rent payment the landlord received was for February 2013. The RTB did not receive any receipts or a tenant rent ledger for this tenancy.

Analysis

Based on the landlord's undisputed evidence, I find on a balance of probabilities that the landlord is entitled to a monetary award of \$3,200.00 for four months of unpaid rent extending from March 2013 until June 2013.

As the landlord has not provided copies of the Agreement, in which charges for late fees and N.S.F. cheque fees are outlined, I dismiss this element of the landlord's application without leave to reapply. Since the tenancy continues and the landlord has requested a monetary award for unpaid rent, I also dismissed the landlord's application for the "Re-Renting Fee" which may or may not be set out in the Agreement. At any rate, the tenancy continues, so the landlord would not be entitled to any monetary award at this time for a re-renting fee, a credit report or advertising fees.

I allow the landlord to retain all deposits currently held by the landlord (including both the security deposit and the key deposit) plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period.

I also allow the landlord to recover the \$100.00 filing fee for this application from the tenant.

Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent and the filing fee for this application, and to retain the tenant's security and key deposit:

Item	Amount
Unpaid March 2013 Rent	\$3,200.00
Unpaid April 2013 Rent	3,200.00
Unpaid May 2013 Rent	3,200.00
Unpaid June 2013 Rent	3,200.00
Less Security and Key Deposits (\$1,600.00 + \$135.00 = \$1,735.00)	-1,735.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order	\$11,165.00

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: June 20, 2013

Residential Tenancy Branch