



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MainStreet Equity Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for a monetary order for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend. The Landlord states that the Tenants were both served with the notice of hearing package and the submitted documentary evidence by Canada Post Registered Mail on November 15, 2013. The Landlord has submitted copies of the Customer Receipt Tracking numbers as confirmation. I accept the undisputed testimony of the Landlord and find that both Tenants have been properly served with the notice of hearing package and the submitted documentary evidence.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

This Tenancy began on February 1, 2013 as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$750.00 payable on the 1st of each month and a security deposit of \$375.00 was paid.

The Landlord states that notice to vacate dated September 30, 2013 was received from the Tenant that stated the end of tenancy would be the end of October. The Landlord states that tenancy ended on October 31, 2013.

The Landlord seeks a monetary claim for \$908.00. This consists of \$350.00 for the Tenant prematurely ending the tenancy before the fixed 12 month term and \$558.00 for recovery of rental incentives (\$62.00 X 9 months). Section 4 of the Tenancy Agreement states, "If the tenant terminates the tenancy in less than 12 months, \$350.00 will be

charged by the Landlord and the Tenant will pay this amount..." Section 4 of the tenancy agreement does not states what the "rental period" would be. However the Landlord states that section 6 states "12 months" and that there is a "Rental Incentive Agreement" dated January 31, 2013 that states that upon a signed a 12 month lease agreement the tenants will receive a monthly rental concession in the amount of \$62.00 for the term of the lease. It also states, "The term of the lease is February 2013 to January 2014." The Landlord has submitted copies of both the signed tenancy agreement and the rental incentive agreement, both of which were dated January 31, 2013. The Landlord further states that monthly rent was \$750.00 per month and that the Tenants paid \$688.00 monthly for 9 months which is the monthly rent minus the \$62.00 rental incentive.

Analysis

I accept the undisputed testimony of the Landlord and find that a claim has been established for \$908.00. Although there is no term stated in section 4 of the tenancy agreement, I take note that "12 months" was written into the rental payment area of section 6 and that there is a signed rental incentive agreement. I also take note based upon the Landlord's direct testimony that monthly rent after the rental incentive was \$688.00. Section 4 of the agreement does provide for a \$350.00 lease break fee.

The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$375.00 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$583.00. This order may be filed in the Small Claims Division of the Provincial Court for enforcement.

Conclusion

The Landlord is granted a monetary order for \$583.00.
The Landlord may retain the security deposit.

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: February 27, 2014

Residential Tenancy Branch

