



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

There are applications filed by both parties. The landlord seeks a monetary order for unpaid rent or utilities, 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 tenant also seeks a monetary order for money owed or compensation for damage or loss and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

The landlord clarified in her amended application that they are now only seeking a monetary order for prematurely ending the fixed term tenancy for \$350.00 for liquidated damages costs.

It was also clarified during the hearing that the tenant was withdrawing her claim for moving costs of \$800.00.

The hearing proceeded on the landlord's amended application of \$350.00 for compensation for liquidated damages, recovery of the \$50.00 filing fee and to be able to keep part of the security deposit to offset this claim. The tenant's application is for the combined \$1,035.00 for the return of the pet damage and security deposits.

Issue(s) to be Decided

Is the landlord entitled to a monetary order?

Is the tenant entitled to a monetary order?

Background and Evidence

This tenancy began on June 1, 2013 on a fixed term tenancy ending on May 31, 2014 as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$1,035.00 payable on the 1st of each month and a security deposit of \$517.50 and pet damage deposit of \$517.50 were paid.

The landlord states that the tenant breached the fixed term tenancy by prematurely ending it on February 28, 2014 before the end of the fixed term on May 31, 2014 and seeks compensation as per the signed tenancy agreement clause #5 which states, "Liquidated Damages: If the tenant end the fixed term tenancy or is in breach of the Residential Tenancy Act or a material term of this Agreement that causes the landlord to end the tenancy before the end of the term as set out in (B) above, or any subsequent fixed term, the tenant will pay to the landlord, the sum of \$350.00 as liquidated damages and not as a penalty..." The landlord seeks a monetary claim of \$350.00. The tenant disputes the landlords claim stating that because of issues with the tenancy that she had to end it.

The tenant states that she vacated the rental unit on February 28, 2014 and has not yet received the return of the \$517.50 security deposit and the \$517.50 pet damage deposits.

The tenant provided notice to vacate the rental unit to the landlord on February 4, 2014 in writing for February 28, 2014 in a letter dated February 4, 2014. The landlord acknowledged receipt of the tenant's notice in a letter dated February 5, 2014 which warned the tenant of prematurely ending the fixed term tenancy. The landlord disputes the tenants claim stating that the tenant failed to provide proper notice to end the tenancy and has suffered a loss of rental income.

Analysis

I accept the evidence of both parties and find on the landlord's claim that the tenant prematurely ended the tenancy on February 28, 2014 before the end of the term on May 31, 2014. The landlord has established a monetary claim for \$350.00. The landlord is also entitled to recovery of the \$50.00 filing fee. The landlord has established a total monetary claim for \$400.00.

As for the tenants request for the return of the combined \$1,035.00 pet damage and security deposits, I find that the tenant has established a claim. The tenant is also

entitled to recovery of the \$50.00 filing fee. The tenant has established a total monetary claim for \$1,085.00.

In offsetting these claims, I order that the landlord retain \$400.00 from the combined pet damage and security deposits and I grant the tenant a monetary order for \$685.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord may retain \$400.00 of the security deposit.
The tenant is granted a monetary order for \$685.00.

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: July 08, 2014

Residential Tenancy Branch

