



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 MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants' security and pet deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on July 31, 2014. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent (the landlord) appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to a Monetary Order for damage to the unit?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the landlord permitted to keep all or part of the security or pet deposit?

Background and Evidence

The landlord testified that this tenancy started on August 01, 2013 for a fixed term lease ending on July 31, 2014. The tenants vacated the rental unit on that date. Rent for this unit was \$850.00 per month. The tenants received a rental incentive of an amount equal to one month's rent which was calculated as a monthly rent reduction over the term of the lease at \$71.00 per month. This made the monthly rent due of \$779.00 per month for the first year. The tenants paid a security deposit of \$425.00 and a pet deposit of \$200.00 prior to taking possession of the rental unit in August, 2013.

The landlord testified that the tenants failed to pay rent for July, 2014 of \$779.00. The landlord issued a 10 Day Notice to the tenants on July 08, 2014. The landlord testified that no rent was paid and the tenants vacated at the end of July. The landlord seeks to recover the unpaid rent for July, 2014.

The landlord testified that there is a clause in the tenancy agreement which notified the tenants that a late fee of \$25.00 will be applied for any month that rent is not paid when due. The landlord seeks to recover \$25.00 for the late payment of July's rent.

The landlord testified that the tenants failed to leave the stove and fridge clean at the end of the tenancy. The stove had to be cleaned and the landlord seeks to recover \$40.00 for this work. The fridge also had to be cleaned and the landlord seeks to

recover \$30.00 for this work. The bedroom door was left with a large hole in it. The door could not be repaired and was replaced. The landlord seeks to recover \$125.00 for this replacement door. The landlord testified that the unit is approximately 30 years old and the landlord has no knowledge if the door was an original door or if it had been fitted at a later date.

The landlord seeks an Order to be permitted to keep the security and pet deposit to offset against the unpaid rent and damages. The landlord also seeks to recover the filing fee of \$50.00.

Analysis

The tenants did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I have carefully considered the landlord's documentary evidence and sworn testimony before me. With regard to the landlord's claim for unpaid rent; I refer the parties to s. 26 of the *Act* which states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

With this in mind I find the rent incentive agreement clearly says that the tenants' rent incentive, equal to a month's rent, will be paid over the first year of the tenancy at an amount of \$71.00 a month. This reduced the tenants' rent each month of the tenancy by \$71.00. The tenants were not entitled to withhold the last month's rent and consequently I must find in favor of the landlord's claim to recover rent for July, 2014 of **\$779.00**.

With regard to the landlord's claim for a late fee of \$25.00; I refer the parties to the Residential Tenancy Regulations s. 7(1)(d) and s. 7(2)(e) which states:

7 (1) A landlord may charge any of the following non-refundable fees:

(d) Subject to subsection (2), an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent;

(2) A landlord must not charge the fee described in paragraph (1) (d) or (e) unless the tenancy agreement provides for that fee.

I have reviewed the tenancy agreement and find there is a clause contained in the agreement that provides for an administrative fee for late fees. Consequently, pursuant to s. 7(1)(d) of the regulations I find the landlord is entitled to recover **\$25.00** in late fees for July, 2014.

With regard to the landlord's claim for cleaning and for damage to the bedroom door; I am satisfied with the landlord's undisputed evidence that the landlord had to complete additional cleaning for the fridge and stove. I therefore find in favor of the landlord's claim to recover the amount of **\$70.00** for this work. However, with regard to the landlord's claim to recover \$125.00 for the replacement of a bedroom door; While I am satisfied that the door was damaged by the tenants I am not satisfied as to the actual cost for this repair. The landlord has provided insufficient evidence to show the actual or estimated cost for the repair. No receipts, invoices or quotes have been provided; I also have concerns about the useful life aspect of this portion of the claim. I refer the parties to the Residential Tenancy Policy Guidelines #40. This indicates that the useful life of a door is 20 years. As the landlord has no knowledge of the age of the door or whether or not this was an original door in a unit of 30 years, or a door purchased and fitted later, then I am unable to make a reasonable assumption as to the life of the door. Without this relevant information and without sufficient evidence showing the actual cost of a new door I must dismiss the landlord's claim for \$125.00.

I Order the landlord to retain the tenants' security and pet deposit totaling \$625.00 pursuant to s. 38(4)(b) of the *Act*. This amount has been offset against the landlord's

monetary claim. I further find the landlord's claim has merit and therefore the landlord may recover the filing fee from the tenants of **\$50.00** pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord for the following amount:

Unpaid rent	\$779.00
Late fee	\$25.00
Cleaning	\$70.00
Filing fee	\$50.00
Less security and pet deposit	(-\$625.00)
Total amount due to the landlord	\$299.00

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for \$299.00 pursuant to s. 67 and 72(1) of the *Act*. The Order must be served on the Respondents. If the Respondents fail to pay the Order, the Order is enforceable through the Provincial Court as an Order 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: January 22, 2015

Residential Tenancy Branch

