



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Estates Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNR, MNSD, OPR, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order, an order of possession and an order authorizing them to retain the security deposit. Despite having been served with the application for dispute resolution and notice of hearing sent via registered letter on May 22 and collected by the tenant on May 29, the tenant did not participate in the conference call hearing.

At the hearing, the landlord advised that the tenant had vacated the rental unit on July 4. As an order of possession is no longer required, I consider that claim to have been withdrawn.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on September 26, 2013 and the tenant vacated the unit on July 4, 2015. Monthly rent, payable in advance on the first day of each month, was initially set at \$1,020.00 but was legally increased as of May 1, 2015 to \$1,045.00. The tenancy agreement provides that the tenant is liable for a \$25.00 late payment fee each time his rent payment is received after the 5th day of the month.

On April 1, 2015, the tenant entered into a separate parking agreement under which he agreed to pay \$45.00 per month for parking. He was given a gate card to access the parking area and the agreement required him to pay a \$50.00 deposit for that card.

The tenant did not pay the full amount of his rent in the month of March 2015 until March 17 and the landlord seeks to recover a \$25.00 late payment fee.

The tenant did not pay the full amount of his rent for the month of May until May 29 and the landlord seeks to recover a \$25.00 late payment fee for that month as well.

The tenant was served with a 10 day notice to end tenancy for unpaid rent on May 7, 2015 and did not dispute the notice but did not vacate the unit until July 4. The landlord has attempted to re-rent the unit, but as of the date of the hearing, has not secured a new tenant.

The tenant failed to pay parking charges in April – July and failed to pay any rent for the months of June and July. The landlord seeks to recover parking charges and unpaid rent as well as late payment fees for each of the months of June and July.

The landlord testified that the tenant failed to pay the \$50.00 gate card deposit and did not return the gate card at the end of the tenancy and seeks to recover \$50.00 as the value of the card.

The landlord also seeks to recover the \$50.00 filing fee paid to bring this application.

Analysis

I accept the landlord's undisputed testimony. I find that the tenant is liable for 4 months of parking charges and I award the landlord \$180.00.

I find that pursuant to the terms of the tenancy agreement, the tenant is obligated to pay a \$25.00 late payment fee when his rent is overdue by 5 days. I award the landlord \$50.00 which represents late payment fees for the months of March and May. I dismiss the claim for late payment charges for the months of June and July. Because the tenancy ended in May pursuant to the undisputed notice to end tenancy, I find that the tenant was not under a contractual obligation to pay rent in June and July and therefore cannot be subject to a late payment fee.

Although the tenancy technically ended in May, the tenant did not vacate the unit and because he overheld the unit, I find that the landlord lost \$1,045.00 in income for the month of June and some income in July. I find that the landlord is entitled to recover all of the lost income for June. As the landlord may still be able to re-rent the unit for the latter half of July, I dismiss with leave to reapply the claim for lost income for July 16-31. I award the landlord \$1,045.00 in lost income for June and \$522.50 in lost income for July 1-15 for a total lost income award of \$1,567.50.

I find that the value of the gate card is \$50.00 and I find that the landlord should recover that value as the tenant failed to return the gate card. I award the landlord \$50.00.

As the landlord has been substantially successful in their claim, I find they should recover the \$50.00 filing fee and I award them that sum.

In summary, the landlord has been successful as follows:

Parking	\$ 180.00
Late payment fees	\$ 50.00
Lost income	\$1,567.50
Gate card	\$ 50.00
Filing fee	\$ 50.00
Total:	\$1,897.50

I order the landlord to retain the \$510.00 security deposit in partial satisfaction of the claim and I grant them a monetary order under section 67 for the balance of \$1,387.50

Conclusion

The landlord is granted a monetary order for \$1,387.50. The landlord will 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: July 08, 2015

Residential Tenancy Branch

