



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, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord applied on January 28, 2015 for:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on February 18, 2015 for:

1. A Monetary Order for the return of the security deposit; and
2. An Order for the recovery of the filing fee – Section 72.

I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not attend the hearing to pursue its application and as a result the Tenant's application is dismissed. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on November 1, 2011. A subsequent tenancy agreement for the same unit was entered into on November 1, 2013 for a fixed term to end October 31, 2014. Rent of \$825.00 was payable monthly on the first day of each month. The Tenant was given a rental

rebate of \$70.00 for each month between November 2013 and October 2014 inclusive. After the end of the fixed term tenancy the rent was no longer discounted. At the outset of the tenancy the Landlord collected \$417.50 as a security deposit and \$200.00 as a pet deposit. The Parties mutually conducted a move-in inspection and a report was completed by the Landlord. The Landlord did not make any offer to the Tenant for a move-out condition inspection as the Tenant "skipped".

The Tenant failed to pay a rent shortfall of \$69.00 for November 2014 and \$31.00 for December 2014. The Tenant also failed to pay rent for January 2014 and the Landlord served the Tenant with a 10 day notice to end tenancy for rent with an effective date of January 12, 2015.

The Landlord and Tenant attended a hearing together on January 12, 2015 and at this hearing the Landlord learned that the Tenant had moved out of the unit. The Landlord was also provided with the Tenant's forwarding address on this date. The Landlord attended the unit on January 13, 2015 and found the Tenant's written note indicating that the Tenant had moved out January 3, 2015 and providing the Tenant's forwarding address. The Landlord claims unpaid rent for November, December and January 2015. The Landlord also claims unpaid rent for February 2015 on the basis that the Tenant did not give the Landlord any notice to end the tenancy. The Landlord states that the unit was rented for February 2015.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Based on the Landlord's evidence that the Tenant's forwarding address was received at the hearing on January 12, 2015, I find that the Landlord failed to make its application to claim against the security deposit within 15 days of receipt of the Tenant's address, I find that the Landlord must pay the Tenant double the combined security and pet deposit of \$617.50 in the amount of **\$1,235.00 (417.50 + 200.00 x 2)**.

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Section 7 of the Act provides that where a tenant does not comply with the

Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. As the tenancy rebate only lasted to and including October 2014 and as the rent was otherwise \$835.00 and based on the Landlord's undisputed evidence that full rent was not paid for November and December 2014 I find that the Landlord has substantiated an entitlement to **\$100.00** in unpaid rent. Based on the undisputed evidence of the Landlord I also find that the Tenant failed to pay rent for January 2015 and that the Landlord is therefore entitled to **\$835.00** in unpaid rent for January 2015. Based on the Landlord's evidence that the unit was rented for February 2015, I find that the Landlord has not substantiated any rental loss for this month and I dismiss the claim for February 2015 rent. Given the tenancy agreement provision for late rent charge, I find that the Landlord is entitled to **\$25.00** for the late rent charge for January 2015. I find that the Landlord is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,010.00**. Deducting this entitlement from the **\$1,235.00** owed to the Tenant leaves **\$225.00** owed to the Tenant. I order the Landlord to return this amount to the Tenant forthwith.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$225.00**. If necessary, this order may be filed in the Small Claims Court and enforced 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: August 14, 2015

Residential Tenancy Branch

