



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matters

The application claims a total monetary amount of \$1,700.00. During the Hearing the Tenant withdrew its claim for \$500.00 compensation in relation to noise. The Tenant's claim is therefore restricted to the remaining amount of \$1,200.00.

The Tenant states that the documentary evidence to support its application was provided for a previous hearing and that the same evidence was not again provided to either the Landlord or the Tenant for this hearing. The Tenant states that at this previous hearing a finding was made that applies to the Tenant's remaining monetary claim. As the Tenant has not provided documentary evidence as required I find that I may not consider this evidence to support the Tenant's oral evidence which will still be considered. The Landlord confirmed that they provided no documentary evidence for this hearing.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

Background and Evidence

The tenancy started in 2003 with a monthly rental amount of \$650.00 and this amount was increased some long time ago to \$700.00.

The Tenant states that in error the Tenant paid \$800.00 per month for the period January to December 2014 inclusive. The Tenant claims recovery of the amount of \$1,200.00. The Tenant indicates that a previous hearing was held in which the matter of the rent was determined. I note that this Decision is dated May 26, 2015.

The Landlord states that the Tenant made an oral agreement with the Landlord to increase the rent to \$800.00 when the Tenant ceased acting as the Landlord's manager. The Landlord states that the fact that these payments were made are evidence of the agreement. The Tenant denies any oral agreement.

Analysis

Section 77 of the Act provides that a decision is final and binding on the parties. In reviewing the previous Decision dated May 26, 2015, I find that the dispute over the amount of rent payable in 2014 was determined to be \$700.00 and that this finding was made after consideration of the Landlord's evidence of an agreement to pay \$800.00. As the Parties' evidence on the amount of rent payable has already been determined with the same evidence and argument made at this hearing, I find that I may not now provide a different outcome. As there is no dispute that the Landlord received \$800.00 per month for 2014 and considering the final and binding effect of the previous Decision, I find that the Tenant is entitled to recovery of the overpayment of **\$1,200.00**. As the Tenant has been successful with its application I find that the Tenant is also entitled to recovery of the **\$50.00** filing fee for a total amount of **\$1,250.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,250.00**. 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 27, 2015

Residential Tenancy Branch

