



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, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing by conference call and gave undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence by Canada post Registered Mail on May 8, 2015. The landlord has submitted a copy of the Canada Post Customer Receipt Tracking number as confirmation. The landlord confirmed that an online search of the Canada Post Website shows that the package was signed for and received by the tenant. Based upon this evidence, I am satisfied that the tenant was properly served with the notice of hearing package and the submitted documentary evidence and is deemed served as per section 88 and 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

This tenancy began on July 1, 2013 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated June 18, 2013. The monthly

rent was \$875.00 payable on the 1st day of each month and a security deposit of \$437.50 was paid.

The landlord provided undisputed affirmed testimony that the monthly rent was \$894.25 at the end of the tenancy. The landlord has submitted a copy of a tenant ledger as confirmation. The landlord stated that the tenant gave notice to end the tenancy on May 1, 2015 on which a condition inspection report for the move-out was completed by both parties. The landlord stated that the tenant failed to provide proper notice to end the tenancy and was unable to re-rent the unit until June 1, 2015 after advertising the unit for rent.

The landlord seeks a monetary claim of \$894.25 for unpaid rent as the tenant failed to provide proper notice to vacate the rental premises.

Analysis

Section 45(1) of the Act sets out that:

A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date after the landlord receives the notice, and
- (b) is before the day in the month...that rent is payable under the tenancy agreement.

I find based upon the undisputed affirmed testimony of the landlord that the tenant failed to provide proper notice to vacate the rental unit. The tenant gave notice to end the tenancy on May 1, 2015 and vacated the rental on the same date. I find that the landlord made reasonable efforts to mitigate any possible losses by immediately advertising the rental unit, but was unable to re-rent the unit until June 1, 2015. I find that the landlord suffered the loss of rental income for May 2015 of \$894.25.

The landlord testified that he continued to hold the tenant's \$437.50 security deposit, plus interest, paid at the beginning of the tenancy. Over that period, no interest is payable. Using the offsetting provisions of section 72 of the Act, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

The landlord applied to keep the tenant's security deposit. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$506.75 under the following terms:

Item	Amount
Unpaid May 2015 Rent	\$894.25
Offset Security Deposit	-437.50
Recover Filing Fee	50.00
Total Monetary Order	\$506.75

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial 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: October 14, 2015

Residential Tenancy Branch

