



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX CHECK REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, FF (Landlord's Application)
 MNDC, MNSD, FF (Tenant's Application)

Introduction

This hearing was convened as a result of cross applications. In the Landlord's Application for Dispute Resolution they sought a monetary Order in the amount of \$387.50 for unpaid rent or utilities, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee. In the Tenant's Application for Dispute Resolution filed May 11, 2015, the Tenant claimed \$387.50 for return of the security deposit.

Only the Landlord's property manager, K.D., attended the teleconference hearing. During the hearing K.D. was given the opportunity to provide her evidence orally, and in documentary form and to make submissions to me. A summary of her testimony is provided below and includes only that which is relevant to the hearing.

As the Tenant did not attend the hearing her Application is dismissed without leave to reapply.

Although both applications were set to be heard at the same time, the Landlord provided evidence on service. She testified that she served the Tenant with Notice of the Landlord's Dispute Resolution hearing on September 28, 2015 by registered mail. She also provided evidence of the tracking number for the registered mail in evidence and accordingly I find the Tenant was sufficiently served.

Issues to be Decided

1. Is the Landlord entitled to a monetary Order under the *Act*, and if so, in what amount?
2. Should the Landlord recover the filing fee?

Background and Evidence

A month to month tenancy agreement between the parties began on or about April 25, 2014 and ended on March 31, 2015 when the Tenant vacated the rental unit. Monthly rent in the amount \$775.00 was due on the first day of each month during the tenancy. The Tenant paid a \$387.50 security deposit and a \$387.50 pet damage deposit at the start of the tenancy. The Landlord testified that she returned both deposits to the Tenant prior to the hearing.

The Landlord testified that the Tenant gave notice to end the tenancy on March 5, 2015 and moved from the rental unit on March 31, 2015. The Landlord confirmed that although she attempted to advertise and re-rent the unit, it was not re-rented until April 15, 2015; consequently she sought compensation for half a month's rent, namely \$387.50 in addition to the \$50.00 filing fee.

Analysis

Based on the documentary evidence, undisputed testimony of the Landlord, and on the balance of probabilities, I find the following.

The Tenant gave notice to end the tenancy on March 5, 2015. Pursuant to section 45 of the *Residential Tenancy Act*, I find the effective date of the Tenant's notice to be April 30, 2015; for greater clarity, section 45 provides as follows:

Tenant's notice

- 45** (1) 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 the landlord receives the notice, and
 - (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I accept the Tenant vacated the rental unit by March 31, 2015 thereby ending the tenancy. The Landlord attempted to re-rent the unit but was not able to do so until April 15, 2015.

Due to the Tenant's late notice, the Landlord did not have a reasonable amount of time to secure a new Tenant for April 1, 2015 and as such I find the Landlord also suffered a loss of rent for half of April 2015 in the amount of \$387.50.

As the Landlord's application had merit, I grant the Landlord the recovery of the \$50.00 filing fee for a total monetary claim of **\$437.50** and I grant the Landlord a monetary Order pursuant to section 67 of the *Act* for this amount. This Order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that court.

Conclusion

The Tenant's application is dismissed without leave to reapply.

I find that the Landlord has established a total monetary claim of **\$437.50** as indicated above, and I grant the Landlord a monetary Order under section 67 for this amount. This Order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 26, 2015

Residential Tenancy Branch

