



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

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

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

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

Issue(s) to be Decided

Was a tenancy agreement entered into?

Does the Tenant owe the Landlord rent?

Is the Landlord entitled to retain the security deposit and recover the filing fee?

Background and Evidence

The following are agreed facts: The Tenant responded to the Landlord's ad for the rental unit and provided references. The Landlord checked the references and offered the unit to the Tenant with a tenancy start date of July 1, 2015 and monthly rental of \$1,300.00. On June 23, 2015 the Landlord emailed the tenancy agreement to the Tenant for signature. On June 24, 2015 the Tenant emailed the Landlord a security deposit of \$650.00 and a move-in fee of \$50.00. The Tenant did not sign and return the tenancy agreement. On June 25, 2015 the Tenant informed the Landlord that she would not be able to rent the unit as her work transfer fell through. The Landlord returned the \$50.00 to the Tenant, immediately contacted previous interested applicants for the rental and also placed the unit for rent again on the rental site. The

Landlord returned the \$50.00 move-in fee and obtained a new tenant starting July 15, 2015 at the same rental rate.

The Landlord claims \$650.00.

Analysis

Section 16 of the Act provides that the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit. "Tenancy agreement" is defined to include an oral agreement. Given the undisputed evidence of the payment of the security deposit I find that the Landlord has substantiated that an oral tenancy agreement was entered into. As such the Tenant was liable for July 2015 rent regardless of whether the Tenant moved into the unit or not. Given this and accepting the Landlord's well supported evidence of having acted immediately to obtain a new renter and therefore reduce the claim being made I find that the Landlord is entitled to \$650.00 in unpaid rent. As the Landlord has been successful with its application I find that the Landlord is also entitled to recovery of the \$50.00 filing fee for a total entitlement of \$700.00. Deducting the security deposit plus zero interest of \$650.00 leaves \$50.00 owed by the Tenant to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of **\$650.00** in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$50.00**. 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: December 17, 2015

Residential Tenancy Branch

