



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR MNSD FF

Introduction

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

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent, damage or loss 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 hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The tenant confirmed service of the application for dispute resolution, including the notice of hearing and evidence on file.

The landlord was granted an order of possession in a previous decision dated July 19, 2016 and the tenant vacated the rental unit as of July 23, 2016. Accordingly, the landlord withdrew her application for an order of possession.

Issues

Is the landlord entitled to a monetary award for unpaid rent, damage or loss?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on October 3, 2015 with a monthly rent of \$650.00 payable on the last day of the previous month. The tenant paid a security deposit of \$325.00 at the start of the tenancy which the landlord continues to hold.

The landlord's application included a claim of outstanding rent in the amount of \$1950.00 for the months of April, June and July 2016. The landlord testified that rent for the months of June and July 2016 has been paid in full since the date of application so is only seeking April rent. In the hearing the landlord also requested to recover \$269.55 in late fee charged by her bank.

The tenant submits that the issue of outstanding rent for the month of April was already considered and dismissed without leave to reapply in a previous decision dated June 8, 2016.

Analysis

The landlord's application to recover unpaid rent for the month of April 2016 has been considered and dismissed without leave to reapply in a decision dated June 8, 2016 issued by Arbitrator R. Maddia. Accordingly, the landlord's application to recover rent for April 2016 is dismissed without leave to reapply.

The landlords claim for late fee charges from her bank was not included in her application and is dismissed without leave to reapply with the exception of any charges the landlord may have incurred after the application filing date of June 22, 2016. The landlord is at liberty to reapply to recover any late fee charges incurred after June 22, 2016. Any charged incurred prior to this date could have and should have been included in this application.

The landlord's application was filed on June 22, 2016. The application included unpaid rent for the month of June 2016. The June rent was subsequently paid on June 23, 2016. As the landlord had a legitimate claim at the time of the filing date, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

The landlord continues to hold a security deposit of \$325.00. I allow the landlord to retain \$100.00 from the security deposit in full satisfaction of the monetary award pursuant to section 38 of the Act.

Conclusion

The landlord is permitted to retain \$100.00 from the security deposit in full satisfaction of the monetary award pursuant to section 38 of the Act. The landlord's application to recover rent for April 2016 is dismissed without leave to reapply. The landlord is at liberty to reapply to recover any late fee charges incurred after June 22, 2016.

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 02, 2016

Residential Tenancy Branch

