



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for compensation for unpaid rent, for compensation for loss or damage under the Act, regulations or tenancy agreement, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on April 16, 2016. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Are there other losses or damages and if so is the Landlord entitled to compensation?
4. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on November 1, 2008 as a month to month tenancy. Rent is \$633.45 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$275.00 at the start of the tenancy. This tenancy ended April 1, 2016.

The Landlord said that the Tenant has unpaid rent of \$38.65 for December, 2015, \$.20 for each month of January and February, 2016 and \$633.45 for March, 2016. Further the Tenant owes a late rent payment fee of \$25.00 for March, 2016 and the Tenant over held one day in April, 2016 so the Landlord is requesting an over holding charge of one days rent in the amount of \$21.12 for April 1, 2016. The Landlord said her total claim is \$718.62 plus the filing fee of \$100.00.

The Landlord supplied the tenancy agreement, the inspection reports, a Notice of rent increase, an Order of Possession for March 31, 2016 and the rent payment ledger for this tenancy to support the Landlord's application.

Analysis

Section 26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has the right under this Act to deduct all or a portion of the rent.

The Tenant did not have the right under the Act to withhold part or all of the rent for December, 2016 in the amount of \$38.65 and unpaid rent for January, February and March, 2016 in the amount of \$633.85 for a total of unpaid rent of \$672.50. Further I award the Landlord an over holding charge of \$21.12 for the Tenant moving out on April 1 instead of March 31, 2016 and the late rent fee of \$25.00 for March, 2016. I award the Landlord \$672.50 for unpaid \$21.12 for over holding charges and \$25.00 for a late fee for a total amount of \$718.62.

As the Landlords have been successful in this matter, she is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit an interest in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears: (\$500.00 X 2)	\$ 672.50
	Over holding charge	\$ 21.12
	Late fee	\$ 25.00
	Recover filing fee	\$ 100.00
	Subtotal:	\$818.62
Less:	Security Deposit and interest	\$ 275.69
	Subtotal:	\$275.69
	Balance Owing	\$542.93

Conclusion

A Monetary Order in the amount of \$542.93 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: September 2, 2016

Residential Tenancy Branch