



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASCENT REAL ESTATE MANAGEMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNSD MNDC FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for unpaid rent or utilities, for authorization to retain all or part of the tenant's security deposit and pet damage deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

An agent for the landlord (the "agent") attended the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The agent testified that the Notice of Hearing, Application and documentary evidence were served on the tenant by registered mail on April 27, 2016 and that the package was addressed to the address provided by the tenant. The tenant did not pick up the registered mail package which was eventually returned to the sender. A tracking number referenced on the cover page of this decision was submitted in evidence. Section 90 of the *Act* states that documentary served by registered mail are deemed served five days after they are mailed. Based on the above, I find the tenant was deemed served with the Application, Notice of Hearing and documentary evidence as of May 2, 2016. I note that refusal or failure to accept service does not constitute a ground for a Review Consideration.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

- What should happen to the tenant's security deposit and pet damage deposit under the *Act*?

Background and Evidence

The agent testified that a fixed term tenancy began on August 1, 2015 and was scheduled to end on July 31, 2016. Monthly rent in the amount of \$1,600.00 was due on the first day of each month. The tenant paid a security deposit of \$800.00 and a pet damage deposit of \$800.00 at the start of the tenancy, which the landlord continues to hold. The tenant vacated the rental unit on March 31, 2016, according to the agent.

The landlord's monetary claim of \$1,775.00 is comprised of the following:

| ITEM DESCRIPTION | AMOUNT CLAIMED |
|--|-------------------|
| 1. March unpaid rent | \$1,600.00 |
| 2. 3 Non-Sufficient Funds ("NSF") fees (calculated at \$25.00 per NSF fee x 3) | \$75.00 |
| 3. Recovery of cost of the filing fee | \$100.00 |
| TOTAL | \$1,775.00 |

Regarding item 1, the agent testified that the tenant failed to pay rent for "use and occupancy" of \$1,600.00 for the month of March 2016 and instead remained in the rental unit without paying \$1,600.00 for "use and occupancy" and eventually vacated the rental unit on March 31, 2016. The agent stated that this resulted in a loss of March 2016 rent in the amount of \$1,600.00.

Regarding item 2, the agent testified that the tenant provided three cheques that were returned as NSF and that the tenant's ledger submitted in evidence that the tenant was charged \$25.00 for each of the three NSF cheques. The landlord is seeking \$75.00 for this portion of their claim.

Regarding item 3, the landlord is seeking the recovery of the cost of the filing fee which will be addressed later in this decision.

A previous cross-application decision, the file numbers of which have been included on the cover page of this decision, resulted in an order of possession being granted previously for the landlord. In that decision, the landlord was also authorized to deduct

\$100.00 for the recovery of the cost of the filing fee for that application from the tenant's security deposit of \$800.00. As a result, the tenant's security deposit balance was reduced to \$700.00, while the tenant's pet damage deposit balance remains at \$800.00.

Analysis

Based on the undisputed documentary evidence of the landlord and the undisputed testimony of the agent provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was deemed served with the Notice of Hearing, Application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the tenant. As a result, and taking into account the undisputed documentary evidence before me and the undisputed testimony of the agent, and the reasonable amount claimed, I find the landlord's application is fully successful in the amount of **\$1,775.00** as claimed. I find the landlord suffered a loss of rent for the month of March 2016 by the tenant failing to pay \$1,600.00 for "use and occupancy" for the month of March 2016. As the landlord's application is successful, I grant the landlord the recovery of the filing fee which has been incorporated in the \$1,775.00 amount described above.

As described above, the landlord continues to hold the tenant's security deposit of \$700.00 and a pet damage deposit of \$800.00 which have not accrued any interest to date.

I authorize the landlord to retain the tenant's full security deposit of \$700.00 and full pet damage deposit of \$800.00 in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$275.00**. This amount is comprised of \$1,775.00, less the \$700.00 security deposit and less the \$800.00 pet damage deposit.

Conclusion

The landlord's application is fully successful.

The landlord has established a totally monetary claim of \$1,775.00. The landlord has been authorized to retain the tenant's full security deposit of \$700.00 and full pet damage deposit of \$800.00 in partial satisfaction of the landlord's monetary claim.

The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of \$275.00 as described

above. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

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 21, 2016

Residential Tenancy Branch

