



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Greater Victoria Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This was a hearing with respect to the landlord's application for a monetary award and an order to retain the security deposit. The hearing was conducted by conference call. The landlord's representatives and the tenant called in and participated in the hearing. The application for dispute resolution and Notice of Hearing were sent to the tenant's forwarding address by registered mail on May 17, 2016. The documents were returned to the landlord unclaimed, but the tenant later attended at the landlord's office and personally received the documents. He acknowledged at the hearing that he received the application and Notice of Hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award and if so, in what amount?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

The rental unit is an apartment in Victoria. The tenancy began on March 15, 2015 for a one year fixed term and thereafter month to month. The monthly rent was \$650.00, payable on the first of each month. The tenant paid a security deposit of \$325.00 before the start of the tenancy.

By letter dated April 11, 2016 the tenant gave notice that he intended to move out of the rental unit on May 1, 2016. The landlord conducted a move-out inspection with the tenant on April 30, 2016. The landlord's representative testified that when the tenancy ended the tenant owed rental arrears of \$295.00. The landlord claimed loss of revenue because the tenant failed to provide a full month's notice as required. The landlord succeeded in re-renting the unit commencing May 16, 2016.

At the hearing the landlord testified that the landlord's claim was reduced to a claim for the arrears of \$295.00, plus loss of revenue for May in the amount of \$325.00 and recovery of the filing fee. After applying the security deposit to the outstanding amount the landlord was claiming the net amount of \$395.00.

The tenant agreed that he was responsible for rent arrears and loss of rent for May in the amount of \$325.00, but he did not agree that he should be responsible to pay the filing fee; the tenant's position was that the landlord's application for dispute resolution was unnecessary because the tenant did not dispute the landlord's claim.

Analysis

I find that the landlord is entitled to recover the amount claimed, namely: the sum of \$620.00 as well as the \$100.00 filing fee for a total award of \$720.00. I order that the landlord retain the tenant's \$325.00 security deposit in partial satisfaction of this award and I grant the landlord a monetary order under section 67 for the balance of \$395.00.

I do not accept the tenant's submission that the landlord should not recover the filing fee for this application because the landlord did not have the tenant's express written consent to an award in the amount claimed and it did not have the tenant's written permission to retain the security deposit. The landlord was therefore obliged by the provisions of section 38 of the *Residential Tenancy Act* to return the security deposit within 15 days of the end of the tenancy or to apply for dispute resolution to claim the deposit. Because the landlord was required to make an application to claim the deposit, I find that it is entitled to recover the filing fee for this application.

Conclusion

The landlord has been directed to retain the tenant's security deposit in partial satisfaction of its claim and it has been granted a monetary order in the amount of \$395.00. This order may be registered 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: October 27, 2016

Residential Tenancy Branch