



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hugh & McKinnon Realty Ltd.
and [tenant name suppressed to protect privacy]

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

Issue(s) to be Decided

Is the Landlord entitled to unpaid rent?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The following are undisputed facts: The tenancy started on June 1, 2015 and ended on May 28, 2016. Rent of \$2,800.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,400.00 as a security deposit. The Tenant failed to pay rent for May 2016 and the Landlord claims \$2,800.00.

The Tenant states that the tenancy agreement included use of 4.5 acres of land and that the rent was not paid because the Landlord unilaterally and without notice to the Tenant removed the land from the Tenant’s use. The Tenant states that she kept horses on the land and could not live in the house without use of the land for the horses.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement.

Based on the undisputed evidence of unpaid rent I find that the Landlord has substantiated an entitlement to **\$2,800.00**. As the Landlord has been successful with its application I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$2,900.00**. Deducting the security deposit of **\$1,400.00** plus zero interest from the entitlement leaves **\$1,500.00** owed by the Tenant to the Landlord. The Tenant is at liberty to make an application for dispute resolution to claim against the Landlord should the Landlord have caused the Tenant any loss.

Conclusion

I Order the Landlord to retain the security deposit plus interest of \$1,400.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$1,500.00**. 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: November 23, 2016

Residential Tenancy Branch