



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ALLIED CONCEPTS CORP/RPM INC.
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 (the "Application") 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, 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 July 16, 2016 and that the package has not been returned to sender. The agent affirmed that the registered mail package was addressed to the tenant's written forwarding address that written was on the outgoing condition inspection report. While the agent could not locate the original tracking number during the hearing, the agent stated that a second registered mail package was served on the tenant at the same mailing address on December 23, 2016 and provided the registered mail tracking number in evidence which has been included on the cover page of this decision for ease of reference. The agent affirmed that the second registered mail package was marked as "returned to sender" and was returned unclaimed.

Section 90 of the Act states that documents 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 first registered mail package as of July 21, 2016 and the

second registered mail package as of December 30, 2016. Based on the above, I find the tenant was sufficiently served as required under the *Act* and as such, the hearing continued without the tenant.

Preliminary and Procedural Matter

At the outset of the hearing, the agent clarified that the monetary claim of \$1,000.00 was for loss of July 2016 rent and that the landlord was withdrawing their claim for unpaid utilities and liquidated damages as the agent confirmed that she understood that the landlord was limited to the amount claimed on the Application served on the tenant in accordance with the Residential Tenancy Branch Rules of Procedure.

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 under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on September 1, 2015 and was scheduled to revert to a month to month tenancy after August 31, 2016. Monthly rent in the amount of \$1,000.00 was due on the first day of each month. The tenant paid a security deposit of \$500.00 at the start of the tenancy, which the landlord continues to hold.

The agent testified that the tenant gave written notice dated May 30, 2016 to vacate the rental unit on June 30, 2016. Although the tenant vacated the rental unit on June 30, 2016, the tenant breached the fixed term tenancy by vacating before the end of the fixed term tenancy. The agent confirmed that the landlord suffered a loss of July 2016 rent as a result as the rental unit could not be rented for the month of July 2016.

Submitted in evidence by the landlord was a copy of the tenancy agreement, the tenant's written notice, a document explaining the change in ownership of the building which included contact information, and a copy of the condition inspection report.

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 agent's testimony and the documentary evidence before me, I find the landlord's application is fully successful in the amount of **\$1,000.00** for loss of July 2016 rent. I find the tenant breached section 26 of the *Act* which requires a tenant to pay rent on the date that it is due in accordance with the tenancy agreement. Also, I find the tenant breached section 45(2) of the *Act* as the tenant was not entitled to end the tenancy earlier than August 31, 2016 which is the end date of the fixed term tenancy. As the landlord's application is successful, I grant the landlord the recovery of the filing fee in the amount of **\$100.00**.

The landlord continues to hold the tenant's security deposit of \$500.00 which has not accrued any interest to date.

I authorize the landlord to retain the tenant's full security deposit of \$500.00 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 **\$600.00**. This amount is comprised of \$1,000.00 for loss of July 2016 rent, plus the \$100.00 filing fee, less the tenant's \$500.00 security deposit.

Conclusion

The landlord's application is successful.

The landlord has been authorized to retain the tenant's full security deposit of \$500.00 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 \$600.00 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: January 26, 2017

Residential Tenancy Branch