



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MND, MNDC, MNSD, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act*, for a monetary order for a strata fine and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The tenant acknowledged receipt of evidence submitted by the landlord. Both parties gave affirmed testimony.

Issues to be decided

Is the landlord entitled to a monetary order for a strata fine and for the recovery of the filing fee?

Background and Evidence

The tenancy started on July 01, 2008 and ended on February 28, 2017. The monthly rent at the end of the tenancy was \$1,011.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$437.50.

The landlord filed evidence to support his testimony that the tenant had put up a privacy fence which was partially on public property and to which the strata counsel took objection. The tenant was informed about the possibility of a fine from the strata but did not remove the fence. The landlord also presented the strata bill to the tenant and she refused to pay. The landlord filed a copy of the bill dated February 07, 2017.

The landlord filed this application on February 15, 2017. At the time the landlord filed this application, the file was payable to the Strata.

The landlord testified that he disputed the fine and on March 01, 2017, the strata reversed the charges on his account. Accordingly the landlord withdrew his application

for a monetary order for the strata fine but maintained his application for the recovery of the filing fee.

Analysis

Based on the testimony of both parties and the documents filed into evidence by the landlord, I find that the tenant did put up a privacy fence that the strata objected to and accordingly levied a fine on the landlord. At the time the landlord made this application, the fine was outstanding and the tenant refused to remove the fence or pay the fine. Therefore the landlord was forced to make this application to obtain a monetary order against the tenant in order to pay the fine. After the tenant moved out, the strata reversed the fine.

Since the landlord had no choice other than to make this application while the fine was outstanding, I find that the landlord is entitled to the recovery of the filing fee of \$100.00.

The landlord currently holds \$437.50 for a security deposit. The interest on the base deposit is \$3.30. Therefore the landlord must return \$440.80 to the tenant.

The landlord has established a claim for \$100.00. . I order that the landlord retain the \$100.00 in full satisfaction of the claim and I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$340.80. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$340.80**.

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: March 14, 2017

Residential Tenancy Branch