



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, MNSD, MND, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent or utilities, for a monetary Order for damage to the rental unit, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on January 26, 2017 the Application for Dispute Resolution, the Notice of Hearing, and all evidence the Landlord submitted in support of this Application were sent to the Tenant, via registered mail, at the service address noted on the Application. The Landlord submitted Canada Post documentation that corroborates this statement. The Agent for the Landlord stated that the Tenant provided the service address to the Landlord on January 15, 2017.

The Agent for the Landlord stated that the aforementioned registered mail was returned to the Landlord as it was not claimed by the Tenant.

In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant was not represented at the hearing.

Preliminary Matter

The Agent for the Landlord stated that the Tenant passed away in April of 2017. He stated that because the Tenant has passed away, the Landlord is no longer seeking a monetary Order.

The Agent for the Landlord withdrew all of the Landlord's claims, with the exception of the claim to keep the security deposit.

Issue(s) to be Decided

Is the Landlord entitled to keep all or part of the security deposit?

Background and Evidence

The Agent for the Landlord stated that:

- the tenancy began on September 01, 2016;
- the parties signed a fixed term tenancy agreement, the fixed term of which ended on August 31, 2017;
- the Tenant paid a security deposit of \$1,350.00;
- on January 03, 2017 he went to the rental unit and found the patio door wide open;
- he spoke with the Tenant on January 03, 2017, at which time the Tenant told him the rental unit was still being occupied;
- the Landlord did not give the Tenant notice to end the tenancy;
- the Tenant did not give the Landlord notice to end the tenancy;
- all the property was removed from the rental unit by January 15, 2017; and
- the Landlord and the Tenant completed a condition inspection report on January 15, 2017.

The Landlord is seeking compensation of \$1,350.00 in liquidated damages. The Landlord submitted a tenancy agreement, in which the Tenant agreed to pay liquidated damages of \$2,700.00 if he vacates the rental unit prior to the end of the fixed term of the tenancy.

Analysis

On the basis of the undisputed evidence I find that the Tenant vacated the rental unit prior to the end of the fixed term of the tenancy. I therefore find that he is obligated to pay liquidated damages, as required by the tenancy agreement.

Although the tenancy agreement declares that the Tenant must pay liquidated damages of \$2,700.00, the Landlord is only seeking authority to retain the Tenant's security deposit.

As the Tenant agreed to pay liquidated damages of \$2,700.00, I grant the Landlord's application to retain the full security deposit of \$1,350.00.

Conclusion

The Landlord has authority to retain the Tenant's security deposit of \$1,350.00.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: July 10, 2017

Residential Tenancy Branch