



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim.

The landlord testified that he served the tenant with the notice of hearing on July 19, 2017 by registered mail to the forwarding address of the tenant provided by the tenant. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order for unpaid rent and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on July 19, 2014 and ended on May 31, 2016. The monthly rent was \$1,500.00 payable on the first of each month. Prior to moving in, the tenant paid a security deposit of \$750.00.

The landlord stated that during the tenancy, the tenant failed to pay rent for February, March and April 2015. The landlord agreed to accept payment of the amount owed (\$4,500.00) in monthly instalments. The landlord stated that a payment plan was put in place but the tenant made only two payments, for a total of \$700.00. The tenant informed the landlord that he could no longer afford the rent and moved out on May 31, 2016. The landlord stated that the tenant owed \$3,800.00 for unpaid rent. The landlord testified that the tenant provided him with a forwarding address on the day he moved out.

The landlord made this application 14 months after the tenancy ended which is also the date that the tenant provided the landlord with a forwarding address.

Analysis

In the absence of evidence to the contrary, I find that the tenant reneged on his agreement with the landlord and owes the landlord \$3,800.00 in unpaid rent.

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. Based on the sworn testimony of the landlord, I find that the landlord was notified of the tenant's forwarding address on May 31, 2016. I further find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address. Therefore, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$750.00 and is obligated under section 38 to return double in the amount of \$1,500.00. The landlord has established a claim of \$3,800.00. I will use the offsetting provisions of section 72 of the *Act* to grant the landlord a monetary order under section 67 of the *Residential Tenancy Act*, in the amount of \$2,400.00 which consists of the difference between the established claims of both parties. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order of **\$2,400.00**.

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

Dated: January 03, 2018

Residential Tenancy Branch