



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CORNERSTONE PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for damages and loss pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 20 minutes. The corporate landlord was represented by its agent RS (the "landlord") who attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's application for dispute resolution dated July 13, 2017 and evidentiary materials were served on the tenant by registered mail sent to a forwarding address provided by the tenant on July 19, 2017. The landlord provided a copy of the Canada Post tracking number and printout of the webpage showing delivery completed, into written evidence. Pursuant to sections 88, 89 and 90 of the *Act* I find that the tenant was served with the landlord's hearing package on July 24, 2017, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for damages and loss as claimed? ? Is the landlord entitled to retain all or a portion of the security deposit for this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This tenancy began in April, 2015 and ended July 1, 2017. The tenant paid a security deposit of \$875.00 and pet damage deposit of \$875.00 at the start of the tenancy. The parties prepared a move-in condition inspection report at the start of the tenancy.

The landlord said that while the parties agreed on a time and date for the move-out condition inspection the tenant failed to attend. The landlord testified that they attempted to contact the tenant but the tenant was uncommunicative. The landlord completed the condition inspection report without the tenant on June 30, 2017.

The landlord said that there were some issues with the condition of the rental unit and they are seeking to retain \$795.00 of the security deposit for this tenancy. The landlord testified that they have returned the balance of the deposit, \$955.00 to the tenant already.

Analysis

Section 38 of the *Act* requires the landlord to either return the tenant's security deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy and or upon receipt of the tenant's provision of a forwarding address in writing.

I accept the evidence that the tenant provided a forwarding address in writing on June 30, 2017 and the tenancy ended on July 1, 2017. The landlord filed their application to retain the security deposit on July 13, 2017, within the 15-day timeframe provided by section 38(1)(c) of the *Act*.

I accept the landlord's undisputed evidence that after some negotiations the parties agreed to a time and date for the move-out inspection and the tenant failed to attend. I accept the landlord's evidence that the tenant was uncommunicative and did not participate in the inspection nor did they provide any information that they were unable to attend on the agreed upon time and date. I find that the landlord offered the tenant multiple opportunities to participate in a move-out inspection as required under section 35(2) of the *Act*. I accept the landlord's undisputed evidence that a date was agreed upon and set but the tenant failed to attend on the date of the inspection. I therefore,

find that the landlord was able to complete and sign the inspection report without the tenant in accordance with section 35(5) of the *Act*.

I accept the landlord's evidence that there was some damage to the rental unit requiring repairs and remediation. I accept the undisputed evidence of the landlord that the cost of the repairs was \$795.00. Accordingly, I find that the landlord is authorized to retain that amount of the security deposit for this tenancy.

As the landlord's application was successful the landlord is also entitled to recover the \$100.00 filing fee for this application.

Conclusion

The landlord may retain \$795.00 of the security deposit for this tenancy.

I issue a monetary award in the amount of \$100.00 in the landlord's favour. The landlord is provided with this Monetary Order and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: January 11, 2018

Residential Tenancy Branch