



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDCL, FFL

Introduction

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. A Monetary Order in the sum of \$876.
- b. An Order to recover the cost of the filing fee.

The tenant(s) failed to appear at the scheduled start of the hearing which was 1:30 p.m. on October 29, 2018. A representative of the landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenant(s) failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The representative of the landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on the Tenant by mailing, by registered mail to where the Tenant resides July 26, 2018. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to A Monetary Order and if so how much?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenant entered into a fixed term written tenancy agreement with a previous landlord that provided that the tenancy would start on July 15, 2005, continue for one year and become month to month. The rent was \$876 per month payable in advance on the first day of each month at the time the tenancy ended. The tenant paid a security deposit of \$330 at the time the tenancy started. . .

The landlord served a 2 month Notice to End Tenancy on the Tenant on April 23, 2018 via registered mail that set the end of tenancy for June 30, 2018. The tenant did not dispute the 2 month Notice to End Tenancy.

The tenant vacated the rental unit on July 3, 2018 (the extension was agreed upon by the parties). The landlord inadvertently and in error gave the Tenant a cheque in the sum of \$876 to satisfy its obligations under section 51(1) of the Act. However, the Tenant had continued to live in the rental unit for the month of June 2018 without paying rent. The landlord also returned the security deposit in early July 2018.

Once the landlord realized its error it demanded the tenant return the \$876. The tenant has refused and or failed to pay the sum that was paid in error.

Analysis - Monetary Order and Cost of Filing fee

I determined the landlord is entitled to the sum of \$876 for the cheque for the equivalent of one month rent that was paid in error. The tenant was fully aware that the he had taken advantage of his right to receive the equivalent of one month rent as the tenant resided in the rental unit for the month of June 2018 without paying rent. I granted the landlord a monetary order in the sum of \$876 plus the sum of \$100 in respect of the filing fee for a total of \$976.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the 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: October 29, 2018

Residential Tenancy Branch