



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HUDSON MEWS HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL MNRL-S

Introduction

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

- a Monetary Order for unpaid rent, damages and loss pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The corporate landlord was represented by its agent SS (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenant was served with the landlord's application for dispute resolution dated September 12, 2018 and evidence by registered mail sent on September 20, 2018. The landlord provided a Canada Post tracking number as evidence of service. Based on the evidence I find that the tenant was deemed served with the landlord's application package in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord gave undisputed evidence regarding the following facts. This periodic tenancy began in February 2015. The monthly rent was \$1,358.00 payable on the first of each month. In addition the tenant was responsible for paying a monthly parking space fee of \$100.00. The landlord holds total deposits for this tenancy in the amount of \$1,335.00 comprised of a security deposit, pet damage deposit.

The landlord said that the tenant failed to pay the rent or the parking fee for September 2018. The landlord testified that the tenancy agreement provides that a late charge of \$25.00 applies for late rent payments.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed evidence of the landlord that the rent for this tenancy was \$1,358.00 plus a parking fee of \$100.00. I accept the evidence that the tenant failed to pay the rent or parking fee for September 2018 and that there is an arrear of \$1,458.00. I accept the landlord's evidence, supported by the tenancy agreement submitted into evidence, that a late fee of \$25.00 applies to rent payments not received by the due date. Accordingly, I find that the landlord is entitled to a monetary award in the amount of \$1,483.00 for the arrears.

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

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security and pet damage deposit in the amount of \$1,335.00 in partial satisfaction of the monetary award issued.

Conclusion

I issue a monetary award in the landlord's favour in the amount of \$248.00 representing the arrear for this tenancy and filing fee less the deposits held.

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 15, 2019

Residential Tenancy Branch