



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Decision Codes: FFL, MNDL-S

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$1764 for unpaid rent
- b. An order to keep the security deposit.
- c. 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 July 15, 2019. 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.

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 the forwarding address provided by the tenant on April 15, 2019. With respect to each of the applicant's claims I find as follows:

Issues 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 retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a fixed term written tenancy agreement that provided that the tenancy would start on February 1, 2018 and end on January 31, 2019. The tenancy agreement provided that the tenant(s) would pay rent of \$1664 per month payable in

advance on the first day of each month. The tenant paid a security deposit of \$800 at the start of the tenancy.

The landlord conducted an inspection of the rental unit and discovered the tenant had marijuana grow operation. The landlord served a one month Notice to End Tenancy for cause that set the end of tenancy for June 30, 2019. The tenant filed an Application for Dispute resolution seeking an order to cancel the one month Notice to End Tenancy. The tenant's application was dismissed and an Order of Possession was granted for the end of June 2018.

The landlord testified the tenant contacted her and requested that he be given to the end of July for find another place and to move his belongings. After getting instructions from the owner the landlord agreed provided the tenant paid the rent for July which was to be accepted for "use and occupation only". The tenant paid the rent for July in the sum of \$1664 in the form of a cheque. On July 13, 2019 the tenant put a stop payment on this cheque.

The tenant filed an application which was heard on April 1, 2019. The arbitrator ordered that the landlord pay to the tenant the sum of \$599.95 for oil purchased by the tenant plus \$100 filing fee. The landlord did not dispute this claim and agreed to this sum . The tenant's application for the return of the security deposit was dismissed as the tenant failed to provide the landlord with a forwarding address prior to the hearing.

The tenant did not attend this hearing. However, he filed a tenant's summary of events 4 days before the start of the hearing (The Rules of Procedure provide that a Respondent must upload evidence and serve the Applicant at least 7 days before the hearing). The tenant acknowledges he did not fully move out his belongings until July 4, 2019. Much of the evidence presented in the summary is at odds with the testimony of the landlord. The landlord's evidence was solemnly affirmed. I accepted the landlord's evidence over the unsworn evidence of the tenant set out in the tenant's summary.

The landlord testified she dealt with the tenant on the basis he had paid the rent for July and it was accepted for "use and occupation" only. They did not have any problems in the past with the tenant paying the rent. As a result she was prepared to work with the tenant in showing the property. The first time the tenant permitted the landlord to show the property was on July 21, 2019. The parties conducted a Move-Out Inspection on July 28, 2019. The keys were returned at that time.

Landlord's Application - Analysis

I determined the landlord is entitled to the sum of \$1684 for non payment of the occupation rent for the month of July 2018. The tenant originally paid this by cheque. He subsequently put a stop payment on that cheque. The tenant failed to return the keys to the landlord and failed to fully remove all of his belongings until the end of July.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$1664 plus the \$100 filing fee for a total of \$1764.

Security Deposit

I determined the security deposit plus interest totals the sum of \$800. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$964.

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.

The tenant has obtained a monetary order against the landlord in the sum of \$699.95. The landlord must credit the tenant and account for this when enforcing this monetary order.

This decision is final and binding on the parties.

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: July 15, 2019

Residential Tenancy Branch