



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WIDSTEN PROPERTY MANAGEMENT
INC. and [tenant name suppressed to protect privacy]

DECISION

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 1:40 p.m. to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and make submissions.

The landlord testified that on June 15, 2022, copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant in separate packages by registered mail. The landlord provided a registered mail receipts and tracking numbers in support of service. The landlord testified the mail packages were returned unclaimed. The landlord testified the packages were sent to a forwarding address provided by the tenants during the move-out inspection.

Based on the above evidence, I am satisfied that the tenants were served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenants.

Issues

Is the landlord entitled to a monetary award for loss?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on May 12, 2021 with a monthly rent of \$2800.00 payable on the 1st day of each month. The tenants paid a security deposit of \$1400.00 at the start of the tenancy which the landlord continues to hold. The tenancy was for a one year fixed term ending on May 31, 2022 after which it was to continue on a month-to month basis unless the tenant provided legal written notice to end.

The landlord's claim is for loss of rent in the amount of \$2800.00. The landlord submits that the tenants provided inadequate notice to end the tenancy. The landlord submitted a copy of the notice to end tenancy and e-mail from one of the tenants dated May 10, 2022. The landlord testified that they received this notice on May 10, 2022. They notified the tenant in writing that this notice was inadequate but nevertheless the tenants vacated on May 31, 2022. The landlord is claiming loss of rent for June 2022 and testified that they were able to re-rent the unit as of July 1, 2022.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement.

Section 45(1) of the Act sets out that:

A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date after the landlord receives the notice, and

(b) is before the day in the month...that rent is payable under the tenancy agreement.

A notice given under this section must be in writing and comply with the form and content requirements of section 52 of the Act.

The tenants provided a notice to the landlord on May 10, 2022 to end the tenancy effective May 31, 2022. The earliest possible effective date for the tenants' notice to end this periodic tenancy pursuant to section 45 of the Act would have been on June 30, 2022. The tenants did not provide sufficient notice to end the tenancy; therefore, the tenants were still responsible to pay rent for June 2022. I accept the landlord's claim for loss of rent in the amount of \$2800.00 for this month.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$2900.00.

The landlord continues to hold a security deposit of \$1400.00. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$1500.00.

Conclusion

I grant the landlord a Monetary Order in the amount of \$1500.00. Should the tenants 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: February 14, 2023

Residential Tenancy Branch