



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Parties confirm receipt of each other's evidence.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amount claimed?

Is the Landlord entitled to recovery of the filing fee?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

The following are agreed or undisputed facts: the tenancy under written agreement started on April 1, 2022 and the Tenant moved out on May 31, 2022. Rent of \$3,350.00 was payable on the first day of each month. The tenancy agreement was signed on March 29, 2022. At the outset of the tenancy the Landlord collected \$1,675.00 as a security deposit. The Landlord received the Tenant's forwarding address on June 17, 2022 and made the application on the same date. The Tenant gave their notice to end the tenancy on May 16, 2022 and the Landlord advertised the unit on May 18, 2022 for monthly rent of \$3,500.00.

The Landlord claims \$3,350.00 for June 2022 rent.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss. Although the Tenant did not give the Landlord a full month notice, based on the Landlord's evidence that the unit was advertised for a greater amount of rent than was payable by the Tenant, I find that the Landlord failed to take reasonable steps to mitigate the rental loss claimed for June 2022 rent. I therefore dismiss the claim.

As the Landlord's claim has not been successful, I also dismiss the claim for recovery of the filing fee and in effect the Landlord's application is dismissed in its entirety. I order the Landlord to return the security deposit of **\$1,675.00** plus interest of **\$5.82** to the Tenant forthwith.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,680.82**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: March 06, 2023

Residential Tenancy Branch