



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ARDENT PROPERTIES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with a landlord's application for a Monetary Order for unpaid rent, late payment fees and returned cheque fees; and, authorization to retain the security deposit in partial satisfaction of the amounts owed to the landlord. The tenant did not appear at the hearing. The landlord provided a registered mail receipt, including tracking number, as proof the hearing documents were sent to the tenant on June 12, 2014. The landlord submitted that the registered mail was sent to the tenant's forwarding address as he provided on his Notice to Vacate. The landlord testified the registered mail was returned as unclaimed.

Section 90 of the Act deems a person to have received documents five days after mailing, even if the person refuses to accept or pick up their mail, so that a person cannot avoid service.

In light of the above, I found the tenant to be deemed served with the hearing documents and I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Is the landlord entitled to recover the amounts claimed from the tenant?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The tenancy commenced February 1, 2013 and converted to a month to month tenancy after the one year fixed term expired. The tenant paid a security deposit of \$462.50 and was required to pay rent of \$925.00 on the 1st day of every month. The tenancy agreement provides that late payment of rent and returned cheques are subject to an administrative charge of \$25.00 each.

The tenant gave the landlord a Notice to Vacate on April 17, 2014 with an effective date of May 31, 2014. The tenant put a stop payment on his rent cheque for May 2014. The tenant vacated the rental unit in May 2014 and the parties conducted a move-out inspection together on May 21, 2014. The tenant did not authorize the landlord to retain his security deposit.

The landlord is seeking to recover from the tenant unpaid rent of \$925.00 for the month of May 2014 as well as \$25.00 for late payment of rent for May 2014 and \$25.00 for the return of May's rent cheque.

Analysis

Under the Act, a tenant must pay rent when due and must end the tenancy in a manner that complies with the Act. For a month-to-month tenancy, the tenant must give the landlord at least one full month of written notice in order to end the tenancy. Since the tenant was required to pay rent on the 1st of every month, a notice to end tenancy given in April 2014 would be effective as of May 31, 2014 and the tenant would have been obligated to pay rent for the month of May 2014. The tenant's decision to put a stop payment on May's rent cheque was a violation of the Act and the tenancy agreement; therefore, I award the landlord recovery of \$925.00 in rent from the tenant.

Residential Tenancy Regulations also permit a landlord to charge an administrative fee of up to \$25.00 for late payment of rent and returned cheques, provided the tenancy agreement includes such provisions. The tenancy agreement provided for my review includes such provisions and I find the landlord entitled to collect these fees with respect to the returned cheque for May 2014. Therefore, I grant the landlord's request to recover \$25.00 because the tenant did not pay rent for May 2014 on time and \$25.00 because the tenant's rent cheque for May 2014 was returned.

As the landlord was successful in this Application, I further award the landlord recovery of the \$50.00 filing fee paid for this Application.

I authorize the landlord to retain the security deposit in partial satisfaction of the amounts due to the landlord.

In light of the above, I provide the landlord with a Monetary Order to serve and enforce as necessary in the net amount calculated as follows:

Unpaid Rent: May 2014	\$ 925.00
Late payment fee	25.00
Returned cheque fee	25.00
Filing fee	50.00
Less: security deposit	<u>(462.50)</u>
Monetary Order	\$ 562.50

To enforce the Monetary Order it must be served upon the tenant and it may be filed in Provincial Court (Small Claims) to enforce as an Order of the court.

Conclusion

The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order for the balance owing of \$562.50 to serve and enforce as necessary.

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 08, 2014

Residential Tenancy Branch

