



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD MNR FF

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

- a monetary order for compensation for unpaid rent, loss or damage 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. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to service of the application and the landlord’s evidence on the tenant.

Issues

Is the landlord entitled to a monetary award for compensation for unpaid rent, loss or damage?

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 & Evidence

This tenancy began originally began in April 2016. The parties subsequently renewed the lease for a six month fixed term from April 1, 2017 to September 30, 2017. The monthly rent was \$1866.00. The tenant paid a security deposit of \$900.00 at the start of the tenancy which the landlord continues to hold.

On May 2, 2017 the tenant e-mailed the landlord asking if he could terminate the tenancy early. The owner agreed to enter into a mutual agreement to end the tenancy on June 30, 2017 with a charge of one month's rent for terminating the lease early. The parties signed a mutual agreement to end tenancy on May 8, 2017. The mutual agreement to end tenancy contains a clause that the tenant agrees to pay one month's rent of \$1866.00 as the earlier termination charge. The owner subsequently decided to sell the property and it was sold on July 5, 2017.

The landlord is claiming one month's rent for the early termination charge as agreed to by the tenant.

The tenant argues that as the landlord sold the property, the landlord did not suffer any liquidated damages in looking for new tenants. He argues the property is no longer a rental property so there are no liquidated damages.

Analysis

I find the tenant agreed in writing to compensate the landlord for 1 month's rent as an early termination charge. Based on the e-mail correspondence and the signed mutual agreement to end tenancy, it is evident that the landlord agreed to the early termination of the fixed term lease on assurance from the tenant that he would pay this one month's charge. The fact that the landlord subsequently decided to sell the rental unit does not change what was originally agreed to by the parties.

I accept the landlord's claim of **\$1866.00**.

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 from the tenant.

The landlord continues to hold a security deposit in the amount of \$900.00. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Total entitlement for Landlord: \$1066.00 (\$1866.00 + \$100.00 – \$900.00)

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1066.00. 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: September 14, 2017

Residential Tenancy Branch