



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD

Introduction

On July 24, 2018, the Landlord submitted an Application for Dispute Resolution for a monetary order for unpaid rent or utilities; for money owed or compensation for damage or loss; to keep the security deposit; and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord and Tenant attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The Landlord and Tenant provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Tenant acknowledged that she received the Landlord's documentary evidence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to compensation for a lease break fee?
- Is the Landlord entitled to keep the security deposit?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The parties testified that the tenancy began on June 24, 2018, as a fixed term tenancy to continue until July 31, 2019. Rent in the amount of \$2,000.00 is to be paid by the first day of each month. The Tenant paid the Landlord a security deposit of \$1,000.00.

The Landlord testified that the Tenant ended the fixed term tenancy early by moving out of the rental unit on July 5, 2018. The Landlord provided a copy of text messages sent between the Landlord and Tenant.

The Landlord testified that the tenancy agreement has a clause that requires the Tenants to pay \$2,000.00 for the Landlords costs of re-renting the rental unit, if the Tenant ends the fixed term tenancy early. The Landlord provided a copy of the tenancy agreement.

The Landlord makes a total monetary claim in the amount of \$4,566.67 as follows:

- Unpaid rent for June 2018 in the amount of \$466.67.
- Unpaid rent for July 2018 in the amount of \$2,000.00.
- Lease break fee in the amount of \$2,000.00
- To recover the cost of the filing fee of \$100.00

The Landlord testified that he never received any rent payments owing under the tenancy agreement from the Tenant.

In reply, the tenant testified that she did not pay any rent to the Landlord. She testified that the ceiling was too low and her furniture would not fit.

The Landlord testified that since the Tenant ended the tenancy prior to the end of the fixed term the Tenant owes the amount of \$2,000.00 for the cost of finding a new Tenant for the rental unit.

In reply, the Tenant agreed that she would pay the \$2,000.00 amount as claimed.

The Landlord is asking to keep the security deposit in the amount of \$1,000.00 in partial satisfaction of his claim for unpaid rent.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant ended the fixed term tenancy early.

I find that the tenancy agreement contains a term that the tenant will pay a lease break fee of \$2000.00 if the Tenant ends the tenancy early. I find that the Tenant ended the tenancy early. I find that the tenant did not have a legal right to end the tenancy early. I find that the Landlord is entitled to the amount of \$2,000.00.

I find that the tenancy agreement indicates the tenancy commenced on June 24, 2018. I find that the Tenant had the right to move into the rental unit as of June 24, 2018 and was obligated to pay the rent as of that date.

I find that the Tenant failed to pay the rent due under the tenancy agreement for the month of June 2018 and July 2018. I find that the Landlord suffered a loss of July 2018 rent when the Tenant chose to move out early.

I grant the Landlord \$2,466.67 for unpaid June and July 2018, rent.

I order that the Landlord can keep the security deposit in the amount of \$1,000.00 in partial satisfaction of the Landlord's claim for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$4,566.67 comprised of \$2,000.00 for breaking the lease; \$2,466.67 for unpaid rent, and the \$100.00 fee paid by the Landlord for this hearing. After setting off the security deposit of \$1,000.00 against the award of \$4,566.67, I find that the Landlord is entitled to a monetary order in the amount of \$3,566.67. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant ended the fixed term tenancy early and failed to pay the rent. The Landlord has established a monetary claim in the amount of \$4,566.67. I order that the Landlord can keep the security deposit in the amount of \$1,000.00 in partial satisfaction of the Landlord's claim.

I grant the Landlord a monetary order in the amount of \$3,566.67.

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: November 27, 2018

Residential Tenancy Branch