



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MND, MNR, SS, MNSD

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This hearing deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord has applied for an order for the tenant to pay the landlord \$1330.00.

The tenant has applied for an order for the landlord to pay the tenant \$1500.

Background and Evidence

File 727702 -- landlord's application:

The landlord stated that she is reducing her claim to \$750.00 which she claims is the amount of revenue she lost as a result of the tenant not giving the required Notice to End Tenancy.

The landlord testified that:

- The tenant failed to give the required one clear month Notice to End Tenancy and as a result the landlord lost one half months rent for the month of December 2008.
- She received notice by e-mail, on November 20th 2008, that the tenant was moving out of the rental unit on December the 15th 2008.
- She attempted to re-rent the unit for the second half of December 2008, but was unable to do so and therefore lost the rental revenue for that period, in the amount of \$750.00.

The landlord is therefore requesting an order that the tenant be held liable for that \$750.00 loss.

Landlord is also asking that the tenant bear the \$50.00 cost of the filing fee paid by the landlord for her application for dispute resolution.

The tenant testified that:

- She e-mailed her Notice to End Tenancy to the landlord on November 16th 2008 not November 20th 2008 and that she has supplied a copy of the e-mail that shows the date as November 16, 2008.
- The landlord accepted her one day late notice and replied to her e-mail and stated in the reply "this is not sufficient notice; however, I do not foresee this being a problem."

The tenant is therefore requesting that the application for \$750.00 in lost revenue be dismissed.

In response to the tenant's testimony to landlord testified that:

- The e-mails supplied by the tenant as evidence have been altered changing both the dates of both e-mails, and the contents of the landlords reply.
- The date on the tenant's e-mail was altered changing it from November 20, 2008 to November 16, 2008 and the date on the landlord's e-mail was altered changing it from November 24, 2008 to November 17, 2008
- The contents of the landlords e-mail was altered from "as you probably know, this is not sufficient notice; however, I will do my best to rent the suite as soon as possible." to "as you probably know, this is not sufficient notice; however, I do not foresee this being a problem."

In response to the landlord's claims that the evidence had been altered the tenant testified that:

- She did not alter any of the e-mails and in fact would not even know how to do so.

File 730115—tenant's application:

The applicant testified that:

- The landlord was given a forwarding address in writing on December 20, 2008 by the applicant's mother when she did the move of inspection with the landlord.
- The landlord failed to return the security deposit, supply the tenant with a copy of the move-out inspection, or apply for dispute resolution to keep the security deposit, within the 15 day time limit set out in the Residential Tenancy Act.

The tenant is therefore asking for an order for the landlord to pay double the security deposit to the tenant.

The respondent testified that:

- The applicant's mother did not give the landlord a forwarding address in writing at the time of the move out inspection.
- She did not receive a forwarding address in writing until January 8, 2009, when it was sent in an e-mail from the tenant.
- She applied for dispute resolution on January 9, 2009, the day after receiving a forwarding address in writing.

The landlord is therefore asking that the tenant application be dismissed.

Analysis

File 727702 -- landlord's application:

It is my decision that I will allow the landlord's full reduced claim of \$750.00.

The tenant claims that her notice was only a day late and that the landlord had agreed to the one day late notice; however it is my finding that the landlord's evidence is more credible.

It's my finding that the landlord has shown "on the balance of probabilities" that the tenant has altered the e-mails provided as evidence.

Further even if the tenant had given notice on the 16th of November 2008, any notice given in the month of November is valid for the end of the following month and therefore the tenant would still be liable for rent to the end of December 2008.

File 730115—tenant's application:

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

In this case it is basically just the applicant's word against that of the respondent, when it comes to whether or not a forwarding address was given, in writing, to the landlord before January 8, 2009.

Also having found the tenant has altered some of the evidence provided for today's hearing it is my decision and I preferred the testimony of the landlord over that of the tenant.

Therefore it is my finding that the landlord did not receive a forwarding address in writing until January 8th 2009 and since the landlord applied for dispute resolution on the following day, she is well within the time limit set out under the Residential Tenancy Act.

Conclusion

File 727702 -- landlord's application:

I allow the landlord's full reduced claim of \$750.00. I further ordered that the respondent bear the \$ 50.00 cost of the filing fee paid by the landlord for her application for dispute resolution.

Total amount allowed is \$800.00.

I therefore order that the landlord(s) may retain the full security deposit plus interest:

\$ 761.29

I further Order that the Respondent(s) pay to the applicants the following amount:

\$ 38.71



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File 730115—tenant's application:

The tenant's application is dismissed in full.

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: May 07, 2009.

Dispute Resolution Officer