



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application to retain the Tenants' security deposit.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to each Tenant (albeit in one envelope) via registered mail at the address noted on the Application, on March 12, 2009. In the absence of evidence to the contrary, I accept that these documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenants did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to retain all or part of the security deposit paid by the Tenants.

Background and Evidence

The Landlord stated that this was a fixed term tenancy that began on October 01, 2008 and was scheduled to end on September 30, 2009; that the Tenants were required to pay monthly rent of \$950.00; and that the Tenants paid a security deposit of \$475.00 on September 20, 2008.

The Landlord stated that on February 04, 2009 the parties verbally agreed that the tenancy would end on March 31, 2009. She stated that on February 23, 2009 the Tenants verbally advised her that they had found someone who was willing to rent the suite for March 01, 2009 and that they would be vacating the rental unit on February 28, 2009. She stated that the new renters identified by the Tenants did not rent the suite, although she was able to rent the suite to different tenants on March 15, 2009. She stated that the Tenants never provided written notice of their intent to vacate the rental unit.



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The Landlord is seeking compensation for loss of revenue between March 01, 2009 and March 14, 2009, in the amount of \$475.00.

Analysis

In the absence of evidence to the contrary, I find that the Tenants entered into a fixed term tenancy that was scheduled to end on September 30, 2009. Section 45(2) of the *Residential Tenancy Act (Act)* stipulates that a Tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice; is not earlier than the date specified in the tenancy agreement as the end of the tenancy; and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I find that the Tenants did not comply with section 45(2) the *Act* when they ended this tenancy on February 28, 2009, which is before the scheduled end date of September 30, 2009. I find that the Tenants' actions caused the Landlord to lose revenue between March 01, 2009 and March 14, 2009. I therefore find that the Tenants must compensate the Landlord for the loss of revenue, in the amount of \$475.00.

I find that the Landlord is entitled to recover the \$50.00 from the Tenants in compensation for the cost of filing this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$525.00, which is comprised on \$475.00 as compensation for loss of revenue rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I hereby authorize the Landlord to retain the security deposit plus interest, in the amount of \$477.01, in partial satisfaction of this claim.

I decline to award the Landlord a monetary Order for the remaining amount \$47.99, as the Landlord did not apply for a monetary Order and she indicated at the hearing that she did not wish a monetary Order.

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: June 11, 2009.

Dispute Resolution Officer