



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord to retain the security deposit in compensation for lost revenue, and an application by the tenant for recovery of the security deposit and further monetary compensation. Both the landlord and the tenant participated in the teleconference hearing.

Issue(s) to be Decided

Is the landlord entitled to compensation for lost revenue?

Is the tenant entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on March 2, 2009, with monthly rent of \$1600. On February 20, 2009 the tenant paid the landlord a security deposit of \$800. The tenant was unable to move into the unit on March 1, 2009 because the landlord was still in the process of moving out. The tenant paid the full rent of \$1600 for the month of March 2009. On March 11, 2009 the tenant gave the landlord written notice of her intention to vacate the rental unit as of March 12, 2009. The tenant moved out on or about March 12, 2009.

The evidence of the landlord was as follows. On or about March 13, 2009, the landlord placed an ad on Craigslist to re-rent the unit. After approximately one week of advertising, the landlord decided not to attempt to re-rent. The landlord has claimed \$800 in lost revenue.

The evidence of the tenant was as follows. The tenant moved out with less than one month's notice because of the completely inhospitable environment. The landlord had control of the heat and he turned the heat completely off in the rental unit. The landlord intended to use the laundry facilities in the rental unit, contrary to the tenant's understanding when entering into the tenancy. The landlord continually questioned the tenant about whether her guest was in fact an additional occupant. The tenant has claimed recovery of the \$800 security deposit, as well as \$800 as half rent for March, given the inadequate heat and \$50 for March 1, 2009, because the tenant was unable to move in until March 2, 2009.

Analysis

In regard to the landlord's application, I find that the landlord is not entitled to the amount claimed. When a tenant does not give adequate notice, the tenant may be responsible for the landlord's loss of revenue for the following month. However, the landlord has a responsibility to mitigate his loss by attempting to re-rent the unit. In this case, the landlord made the decision not to re-rent. I therefore dismiss the landlord's application.

In regard to the tenant's application, I find that the tenant is entitled to return of the \$800 security deposit. I am not satisfied that the tenant is entitled to the further \$800 claimed. The tenant did not bring to the landlord's attention her concerns about the heat or other issues, and give the landlord an opportunity to address the tenant's concerns. Instead, the tenant decided to end the tenancy. I accept the tenant's testimony that she was unable to move in on March 1, 2009, and I find that she is therefore entitled to the \$50 claimed for that day. As the tenant's claim was partially successful, I find she is entitled to partial recovery of her filing fee for the cost of her application, in the amount of \$25.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$875. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated July 8, 2009.