

Dispute Codes:

MNDC

MNSD

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This is the Landlord’s application for a Monetary Order for compensation for loss of rent for the month of June, 2009 and liquidated damages; and to keep the security deposit.

I reviewed the evidence provided prior to the Hearing. Both parties gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Is the Landlord entitled to a monetary order for loss of rent for the month of June, 2009?
- Is the Landlord entitled to retain the security deposit paid by the Tenant?
- Was there a valid fixed-term written tenancy agreement, and is the Landlord entitled to liquidated damages pursuant to such agreement?

Background and Evidence

The parties agreed on the following facts:

- The Landlord served the Tenant with the Notice of Hearing documents, by registered mail, on June 16, 2009.
- The tenancy started on June 1, 2008.
- Monthly rent was \$1,650.00, due on the first day of each month.
- The Tenant vacated the rental unit on June 1, 2009.
- The Tenant paid a security deposit to the Landlord in the amount of \$825.00 on May 8, 2008.

The Landlord gave the following testimony and evidence:

- The tenancy agreement was a lease, due to expire at the end of June, 2009.
- The Tenant vacated the rental unit without giving notice.
- The tenancy agreement was a fixed term tenancy and allowed for liquidated damages in the amount of \$250.00 in the event the Tenant ended the tenancy before the end of the term.
- The Landlord provided a copy of the rental agreement into evidence.

The Tenant gave the following testimony and evidence:

- In mid-April, the Tenant gave the Landlord's property manager verbal notice that she would be ending the tenancy on May 31, 2009. The Tenant did not give the Landlord written notice of her intent to end the tenancy.
- The Tenant believed the tenancy agreement was for a fixed term of one year, and that it ended on May 31, 2009. The tenancy agreement is confusing with respect to the date the fixed term ended. The Tenant provided a copy of the tenancy agreement into evidence.
- The Tenant submitted that she gave notice to the Landlord's agent in mid-April and therefore does not compensation to the Landlord for loss of rent for the month of June, 2009.

Analysis

Section 13 of the Act requires that tenancy agreements set out the correct legal names of the landlord and tenant; and the date the tenancy ends if it is a fixed term tenancy.

In this case, the tenancy agreement does not disclose the names of the tenants. The tenancy agreement discloses a date of June 31, 2008 as the end of the fixed term. There are not 31 days in June, and the year provided for the end of the term is 2008. Therefore, I find that the written tenancy agreement does not meet the requirements under section 13 of the Act and is not a valid agreement. I dismiss the Landlord's application for liquidated damages in the amount of \$250.00.

The Act defines a tenancy agreement as follows:

"tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

The Tenant paid a security deposit to the Landlord and paid monthly rent to the Landlord from June, 2008 to and including May, 2009. Therefore I find that the Landlord and Tenant had a verbal month-to-month tenancy.

Section 52 of the Act states, in part:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing

The Tenant did not provide the Landlord with written notice to end the tenancy, and in any event did not provide vacant possession to the Landlord on May 31, 2009. I find that the Landlord is entitled to loss of rent for the month of June in the amount of \$1,650.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit, together with accrued interest, towards partial satisfaction of his claim.

The Landlord has established a monetary claim, as follows:

Loss of rent for the month of June, 2009	\$1,650.00
Less security deposit and interest of \$8.05	<u>-\$833.05</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$816.95

Conclusion

The Landlord's application for a monetary order for liquidated damages is dismissed without leave to reapply.

Pursuant to Section 67 of the Act, I hereby grant the Landlord a Monetary Order against the Tenant in the amount of \$816.95. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

Dated: August 27, 2009.
