



Dispute Resolution Services

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

Decision

Dispute Codes: MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent and an order to retain the security deposit in partial compensation of the monetary claim. Three agents for the landlord and both tenants participated in the teleconference hearing.

Issue(s) to be Decided

Is the landlord entitled to the monetary amount claimed?

Did the landlord apply in time to retain the security and pet deposits?

Background and Evidence

The tenancy began on November 15, 2008 as a fixed term tenancy to end on April 30, 2009. The monthly rent, payable in advance on the first day of each month, was \$850. At the outset of the tenancy, the tenants paid a security deposit of \$425 and a pet deposit of \$425. The tenants did not pay rent for April 2009 or provide the landlord with written notice that they intended to vacate the rental unit. The tenants did not return their keys to the landlord. Once the landlord was aware that the tenants had vacated, they attempted to re-rent the unit but were unsuccessful in re-renting until June 15, 2009. The landlord has claimed \$850 in unpaid rent for April 2009. In the landlord's application, they indicated that they attempted to file their application online on Friday, May 15, 2009, but they did not receive a password in time and could not complete their application until May 20, 2009. The landlord requested an extension of time regarding

their application to retain the deposits.

The response of the tenants was as follows. On March 1, 2009 the tenants attended at the landlord's office and gave verbal notice that they would be vacating on April 1, 2009. On April 1, 2009 the tenants went back to the office, dropped off their keys and verbally provided their forwarding address to a male staff member, who wrote it down. On May 1, 2009 the tenants emailed the landlord and provided their forwarding address in writing.

Analysis

In regard to unpaid rent for April 2009, I find that the tenants did not provide written notice of their intention to vacate as required. Further, the landlord attempted to mitigate their loss by re-renting the unit as soon as possible but was unable to do so. I therefore find that the landlord is entitled to \$850 for unpaid rent or lost revenue for April 2009.

In regard to the security and pet deposits, section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit. In this case, the tenants provided their forwarding address in writing on May 1, 2009. The landlord has failed to make an application for dispute resolution within 15 days of receiving the tenants' forwarding address in writing.

I do not find that the landlord is entitled to an extension of time, as they did not provide any reason why they did not attempt to make their application before May 15, 2009, or follow through with their application on the next business day, which was May 19, 2009. An extension of time may only be granted in exceptional circumstances, and I do not find that this case amounts to exceptional circumstances.

The tenants are therefore entitled to the security and pet deposits of \$850, accrued interest of \$1.64, and double the base amount of the deposits in the amount of \$850, for a total of \$1701.64.

As the landlord was partially successful in their application, I find that they are entitled to partial recovery of their filing fee, in the amount of \$25. I deduct the landlord's claim of \$875 from the amount due to the tenants of \$1701.64, for a balance of \$826.64 due to the tenants.

Conclusion

I grant the tenants an order under section 67 for the balance due of \$826.64. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated September 9, 2009.