



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MNDC, MNR, 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

Originally the applicant had filed a claim for lost rental revenue and for damages, however at the hearing the applicant stated he is abandoning his claim for damages and is now only pursuing the lost rental revenue, and the filing fee he paid for today's dispute resolution proceedings.

Background and Evidence

The applicant testified that:

- On June 7, 2009 the tenants gave written notice that they were planning to vacate the rental unit by the end of June 2009.
- The tenants were informed that they had not given proper notice and would be liable for the full rental revenue for July 2009 if the unit was not re-rented however the tenants disagreed and stated they would only pay for one weeks rent in the month of July 2009.
- They were not able to re-rent the unit in the month of July 2009 and therefore lost the full rental revenue for July 2009.
- The tenants only paid \$325.00 of the \$1400.00 rent for the month of July 2009.

The applicant is therefore requesting an order for the remaining \$975.00 of July 2009 rent, that the landlord be allowed to keep the security deposit plus interest towards this claim and that a monetary order be issued for the difference, plus the \$50.00 filing fee, that was paid for today's hearing.

The respondent testified that:

- They did on June 7, 2009 give notice to end the tenancy; however they agreed to pay 1 week rent in the month of July 2009 so that the landlords would get a full 30 days notice even though they still planned to move out by the end of June 2009.
- The landlords accepted their notice and did not tell them they would have to pay for more than a one week rent in the month of July 2009.
- The landlord did not try to resolve this matter with the tenants before going to dispute resolution.
- It is his belief that the landlord has waived his right to claim against the security deposit because he did not complete the move in, or move out inspection reports required under the Residential Tenancy Act.

The respondent's therefore believe that they are not liable for any further rent for the month of July 2009, and that the landlord should also bear the cost of the filing fee, because the landlord did not try to resolve the matter before going to dispute resolution.

Analysis

It is my decision that I'm finding in favour of the landlord in this case. The Residential Tenancy Act requires that a tenant must give one clear month Notice to End Tenancy, and therefore the notice given by the tenants on June 7, 2009 is valid for the end of the following month of July 2009.

The tenant claims that the landlord agreed to accept the Notice to End Tenancy and only one week of July 2009 rent however the landlord adamantly denies that he ever agreed to accept

only one week rent. The burden of proving a claim lies with the person making the claim and when it is just that person's word against that of the other that burden of proof is not met.

Therefore it is my decision that the tenants have not met the burden of proving their claim that the landlord told them they would only have to pay for one week rent in the month of July 2009. Therefore the tenants are liable for the full rental revenue for the month of July 2009, and since they've only paid \$325.00, there is still \$975.00 due.

It's also my decision that the landlords do have a right to claim against the security deposit for the outstanding rent, because although the Residential Tenancy Act states that the right of the landlord to claim against the security deposit for damages to the property is extinguished for failing to complete the condition inspection, it does not extinguished the landlords right to claim against the security deposit for rent.

Conclusion

I have allowed the landlords full reduced claim of \$1025.00. I therefore order that the landlord may retain the full security deposit plus interest:

\$614.36

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

\$410.64

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: October 02, 2009.

Dispute Resolution Officer