



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD, OLC, FF, O

Introduction

This hearing dealt with the tenant's application for a monetary order for loss or damage under the Act and for the return of her security deposit.

Issues(s) to be Decided

The issues to be decided are whether the tenant entitled to a monetary Order for all or part of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

Both parties signed a tenancy agreement on July 12, 2009 for a one year fixed term tenancy beginning on August 1, 2009 for \$1250.00 per month. The tenant provided the landlord with a cheque for the security deposit in the amount of \$1250.00 and 12 post dated cheques for the duration of the fixed term.

A few days later the tenant contacted the landlord to say she could not take the rental unit. The tenant and the landlord confirmed in their testimony that they signed the agreement dated July 14, 2009 that was submitted into evidence.

This agreement states that the tenant paid the landlord \$500.00 cash as partial payment for August 2009 rent and that the balance of \$750.00 would be paid by cheque dated August 1, 2009. The agreement went on to say that payment in full constituted the end to the tenancy agreement.

In testimony, the tenant stated she was requesting the return of the \$500.00 security deposit and the post dated cheques. The tenant confirmed that she had placed stop payments on all of the cheques, including the security deposit and the cheque dated August 1, 2009.

Analysis

As the tenant confirmed in the hearing she placed a stop payment on the cheque for the security deposit, as such I find that she did not pay a security deposit. I dismiss this portion of the tenant's application.

As to the tenant's application requesting the landlord comply with the Act, regulation or tenancy agreement, I find the landlord is not in contravention of the Act or agreement; I dismiss this part of the tenant's application.

As to the tenant's claim that she is owed money under the Act, regulation or tenancy agreement, I find the opposite to be true. The tenant entered into an agreement to compensate the landlord for the tenant's early end to the tenancy. The landlord agreed to release the tenant from her obligations to pay 12 months worth of rent by paying one month.

I find the tenant acted in bad faith, by putting a stop payment on the August 1, 2009 cheque for the agreement to break the tenancy agreement. The tenant entered into the agreement on July 14, 2009 and the agreement states no requirement for the landlord to mitigate any loss resulting from the end of this tenancy.

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$750.00** comprised of August 2009 rent owed. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

As the tenant was not successful in her application I dismiss her request to recover the filing fee for this hearing.

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: December 04, 2009.

Dispute Resolution Officer