



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNR, MNDC, FF

Introduction

A substantial amount of documentary 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

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

Tenants application

This is a request for return of double the security deposit plus interest, and a request to the respondent bear the cost of the filing fee paid for the tenants application for dispute resolution.

Landlords application

This is a request for a monetary order totaling \$2920.00, and a request to retain the full security deposit plus interest towards this claim.

Background and Evidence

First of all I will state that the landlord applied within the time limit set out under the Residential Tenancy Act and therefore if any order is issued for the return of the security deposit, it will not be double.

Secondly the outcome of the tenants application is entirely dependent on the outcome of the landlords application, I therefore deal with the landlords application first.

Landlords application

Council for the landlord testified that:

- The tenant failed to give proper written Notice to End Tenancy and as a result the landlord has lost two full months rental revenue.
- The written Notice to End Tenancy was not received by the landlord until May 2009 and the rental unit was not re-rented in the month of May 2009 or June 2009.
- The tenant also left damage to the refrigerator in the rental unit and two an outside tap at the rental property however the landlord has not had this damage repaired and it may not be repaired. The amounts claimed on the application are just the landlord's estimates.

The applicant is therefore requesting an order as follows

Lost rental revenue for May 2009	\$1335.00
Estimated cost of repairs	\$200.00
Filing fee	\$50.00

Total	\$2920.00
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The landlord therefore requests an order allowing him to keep the full security deposit plus interest towards this claim and that a monetary order be issued for the difference.

The respondent testified that:

- She did not give written notice until the month of May 2009, because she did not have access to her documents which had the landlords address.
- The landlord would not answer the telephone and therefore she was unable to get the landlords address over the phone.
- She did give verbal notice and the landlord did not say that that would be a problem.

Analysis

It is my decision that the tenant is liable for the lost rental revenue. The Residential Tenancy Act requires that the tenant give at least one clear month written Notice to End Tenancy and if the tenant fails to do so, the tenant is liable for any loss to the landlord that results from failure to give that notice.

In this case the written notice was not given until the month of May 2009 and therefore that notice is valid for the end of June 2009 and since the rental unit was not rented out in the months of May or June the tenant is liable for the rent to the end of June 2009.

I further ordered that the respondent bear the \$ 50.00 cost of the filing fee paid for this hearing.



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I deny the claim for damages, because the landlord has supplied no independent estimates of the damages and cost of the repairs, the repairs have not been done, and they may never be done.

Conclusion

Tenant's application

The tenant's application is dismissed without leave to reapply.

Landlord's application

I have allowed \$2720.00 of the landlords claim. I therefore order that the landlord(s) may retain the full security deposit plus interest:

\$628.92

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

\$2091.08

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 03, 2009.

Dispute Resolution Officer