



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for a monetary Order for unpaid rent and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for rent from May of 2009 and to recover the filing fee for this Application for Dispute Resolution from the Tenant, pursuant to sections 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord and the Tenant agree that they entered into a verbal tenancy agreement in which they agreed that the Tenant's daughter would reside in the rental unit in exchange for monthly rent of \$500.00. The parties agreed that the daughter would occupy one bedroom in the rental unit and that she would share common areas in the basement with two other occupants.

The Landlord stated that he received a phone call from the Tenant on April 14, 2009 at which time she advised the Landlord that her daughter would be vacating the rental unit

at the end of April. The Tenant agreed that she made this telephone call although she believes the call was made earlier in the month of April.

The Landlord and the Tenant agree that the rental unit was vacated on May 03, 2009 and that rent was not paid for the month of May. The Landlord is seeking compensation for rent for May on the basis that the Tenant did not provide proper notice of her intent to vacate the rental unit.

The Tenant argued that the Landlord did not lose revenue as a result of the improper notice as he had no intentions of renting it to another occupant. She stated that she was of the understanding that the Landlord was allowing her daughter to occupy this rental unit because her daughter was friends with the Landlord's granddaughter and she believed that the Landlord did not expect proper written notice of her daughter's intent to vacate.

The Landlord agreed that he allowed the Tenant's daughter to occupy this rental unit because her daughter was friends with his granddaughter; that he did not wish to find a new tenant for the rental unit; that he made no effort to locate a new tenant for the rental unit after he was given notice that the daughter would be vacating the rental unit; and that he has no intentions of continuing to rent the unit.

Analysis

I find that the Tenant entered into a verbal tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$500.00. I find that both parties were obligated to comply with the *Act* as a result of their verbal tenancy agreement.

I find that the Tenant did not comply with section 45(2) of the *Act* when she ended this tenancy without providing proper written notice in accordance with section 45 of the *Act*.

Section 67 of the *Act* authorizes me to compensate a landlord for loss or damage **only when** the loss is a result of the tenant's non-compliance with the *Act*. In these circumstances I find that the Landlord did not lose income for the entire month of May as a result of the late notice provided by the Tenant because he did not intend to continue to rent the unit. I find that the Landlord would not have received rent for the full month of May if the Tenant had provided notice of her intent to end the tenancy prior to March 31, 2009, as the Landlord did not intend to find a new tenant. As the date of the notice to end tenancy had no impact on the loss of revenue experienced by the Landlord, I find that the Landlord did not suffer a loss as a result of the Tenant's non-compliance with the *Act*, and I therefore find that he is not entitled to compensation pursuant to section 67 of the *Act*.

Section 26(1) of the *Act* requires tenants to pay rent. In these circumstances the Tenant occupied the rental unit until May 03, 2009 which is three days after she advised

the Landlord that the tenancy would end. I find that the Tenant is obligated to pay occupation rent on a per diem basis for the three days that she overheld the rental unit, at a rate of \$16.12 per month, for a total of \$48.36.

Conclusion

I find that these parties should have been able to resolve this dispute if the parties had each made a reasonable attempt to resolve this conflict. On this basis, I find that each party is responsible for half the cost of filing this Application for Dispute Resolution.

I find that the Landlord has established a monetary claim, in the amount of \$73.36, which is comprised of \$48.36 in unpaid rent and \$25.00 for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$73.36. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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 08, 2009.

Dispute Resolution Officer