



Dispute Resolution Services

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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 to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matter

During the hearing the landlord withdrew the request for filing fee costs.

Issue(s) to be Decided

Is the landlord entitled to retain the deposit paid in lieu of unpaid October 2009 rent?

Background and Evidence

This tenancy commenced April 1, 2009, a deposit in the sum of \$425.00 was paid on March 20, 2009. Rent was \$850.00 due on the first day of the month.

On September 26, 2009 the tenant provided the landlord with written email notice that she would move out on October 10, 2009. The parties agree that the tenant paid for one half of October 2009, rent owed.

The landlord is claiming the balance of October rent and stated they had not been given proper notice to end the tenancy. The landlord testified that they and were not confident the tenant would move out in mid-October, therefore a new tenant could not be identified for mid-October.

The tenant confirmed the email evidence submitted as notice to end her tenancy and testified that she believes she moved out on October 14, 2009 but that the date may have been October 10, 2009.

Analysis

Section 45 of the Act requires a tenant to give one month's written notice to end a periodic tenancy at least one day prior to the day on which rent is due. I find that written notice given on September 26 would effectively end the tenancy on October 31.

Therefore, I find that the tenant failed to provide proper written notice and that the landlord is entitled to retain the deposit paid in compensation for the latter half of October 2009, rent.

Conclusion

The landlord will retain the deposit paid in the sum of \$425.00 as compensation for the loss of rent for one half of October 2009, rent.

The landlord withdrew the claim for filing fee costs.

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: January 29, 2010.

Dispute Resolution Officer