



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking monetary orders for compensation under the Act or tenancy agreement.

The Tenant served the Landlord with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent on November 21, 2009. Under the Act documents served by mail are deemed served five days later. Despite this, the Landlord did not appear at the hearing. I find the Landlord has been served in accordance with the Act. I also note refusal or neglect to accept registered mail is not a ground for review under the Act.

The Tenant appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

Issues(s) to be Decided

Is the Tenant entitled to monetary compensation under the Act?

Background and Evidence

On or about July 15, 2009, the Landlord and the Tenant, along with a third party tenant, entered into a fixed term tenancy agreement for the rental unit. The tenancy was to end on December 31, 2009. One of the terms of the tenancy agreement required the Tenant to have the approval of the Landlord for guests staying longer than two weeks.

On July 24, 2009, the Tenant wrote to the Landlord and requested permission for her fiancé to stay with her in the rental unit for a period of one and half or two months. The Tenant and her fiancé were travelling from out of the country. The fiancé had an opportunity to stay with her for an extended period and was travelling from Europe to stay with the Tenant. The Landlord wrote back to the Tenant and approved the fiancé

staying at the rental unit. The parties also agreed on an extra payment to be included with the rent to cover the long term stay.

The fiancé started staying in the rental unit on or about September 13, 2009. On September 16, 2009, the Landlord provided the Tenant with a receipt for the extra payment for the fiancé to stay in the rental unit.

On or about September 29, 2009, the Landlord met with the Tenant and told the Tenant her fiancé had to leave the rental unit. According to the Tenant, the third party tenant had told the Landlord that the Tenant and her fiancé were making too much noise. The Tenant emphatically denies this. The Tenant explained she feels that the third party tenant was just uncomfortable with the situation. In order to give the third party tenant privacy the Tenant and her fiancé had spent the days and much of the evenings in the library. The Landlord agreed to let the fiancé stay, but at an increased rate of rent for the Tenant.

A day or two later the Landlord again met with the Tenant and told her that the fiancé had to leave the rental unit immediately. The Tenant explained to the Landlord that she thought the Landlord was breaching the tenancy agreement and had approved the fiancé in advance. The Tenant testified that the Landlord then told the Tenant and fiancé to leave the rental unit immediately. According to the testimony of the Tenant, the Landlord informed the Tenant she would still be responsible for the rent until the end of December 2009, under the fixed term agreement, even though she had to leave immediately.

The Tenant and her fiancé spent two nights in a hotel, and then vacated the rental unit on October 1, 2009. The Tenant had paid her October rent, and the Landlord had provided her with a receipt for this. The Landlord has not returned or claimed against the Tenant's security deposit. The Tenant had provided her forwarding address to the Landlord in the documents provided by registered mail, however, as described above the Landlord did not accept the registered mail.

The Tenant is claiming against the Landlord to receive monetary compensation for her October rent, security deposit and hotels costs.

Analysis

Based on the foregoing, the uncontradicted evidence and testimony, and on a balance of probabilities, I find that the Landlord has breached the Act and the tenancy agreement and has caused the Tenant to suffer a loss due to the breaches.

The Landlord could not end the tenancy without giving the required Notice to End Tenancy under the Act. Furthermore, when the Landlord refused to allow the Tenant's fiancé to remain in the rental unit, without just cause, she breached a term of the tenancy agreement and the agreement made with the Tenant.

The Landlord has also breached section 38 of the Act, by not returning or filing an Application to keep the security deposit within 15 days of the end of the tenancy or receipt of the forwarding address.

I find that the Landlord's breaches have caused the Tenant to suffer losses.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Tenant has established a total monetary claim of **\$1,703.33**, comprised of \$403.33 for hotel costs, \$625.00 for October rent, \$625.00 for double the security deposit paid under section 38 and the \$50.00 fee paid by the Tenant for this application.

I grant the Tenant an order under section 67 for the balance due of **\$1,703.33**. This order may be filed in the Provincial Court (Small Claims) 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: April 19, 2010.

Dispute Resolution Officer