



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for a monetary order.

The hearing was conducted via teleconference and was attended by one of the landlords, the tenant did not attend.

The landlord provided testimony that he served the tenant with the notice of hearing documents via registered mail to the forwarding address provided by the tenant. I am satisfied that the tenant has been served with this notice in accordance with the *Residential Tenancy Act (Act)*.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Act*.

Background and Evidence

The parties entered into a tenancy agreement on April 2, 2010 for a 6 month fixed term tenancy with a monthly rent of \$800.00 that was set to begin on May 1, 2010, a security deposit of \$400.00 was paid.

The landlord submits that the tenant then notified the landlords on April 15, 2010 that she was not going to be moving in and wanted to end the tenancy. The landlord testified that he was not able to successfully rent out the rental unit to other tenants effective May 1, 2010. He further states a new tenancy did not materialize and the rental unit remained vacant until July 1, 2010.

Analysis

Section 16 of the *Act* states the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.

As such the tenant is obligated to provide the landlord with a notice to end tenancy that is in compliance with Section 45 of the *Act*. Section 45 stipulates that a tenant may end a fixed term tenancy on a date that is not earlier than one month after the date the landlord receives the notice and is not earlier than the date specified in the tenancy agreement.

This means the tenant is responsible for the payment of rent until the end of the fixed term. Section 7 of the *Act* however requires a party who claims compensation for damage or loss that results from the other's not-compliance with the *Act* must do whatever is reasonable to minimize the damage or loss.

I accept the landlord's testimony that he had received a new security deposit in the amount of \$400.00 from a third party but that no rent for the month of May 2010 was received by the landlord.

I find the landlord's acceptance of the new security deposit are reasonable steps to mitigate any loss that he has made claim to and find the landlord is entitled to further compensation from the tenant in the amount of \$400.00 for the difference between the new security deposit and rent owed to the landlord.

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$450.00** comprised of \$400.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$400.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$50.00**. 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.

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: September 10, 2010.

Dispute Resolution Officer