

DECISION

Dispute Codes OPB, MNSD, MNDC, FF, O

Introduction

This is an application by the Landlord for an order of possession and for a monetary order to keep all or part of the security deposit, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the filing fee.

Both parties attended the hearing by conference call.

At the beginning of the hearing it was learned that the Tenant has vacated the rental unit on October 31, 2010 and that the request for an order of possession is no longer being sought by the Landlord.

All 3 of the Landlord's evidence packages were sent by registered mail to the last known address of the Tenant which was the rental unit which the Tenant vacated and where the Landlord resides at. The Landlord's evidence package was not received by the Tenant.

The Tenant did not serve the Landlord with her evidence package, but tried to obtain a facsimile number from the Landlord to have it sent in this manner. The Landlord does not have a facsimile machine. The Tenant's evidence package was not received by the Landlord.

Issues(s) to be Decided

Is the Landlord entitled to a monetary order?

Background and Evidence

A \$400.00 amount from the security deposit remains outstanding between the Landlord and the Tenant. The Landlord states that \$50.00 of the \$450.00 security deposit was returned to the Tenant. The Tenant confirms the \$50.00 payment made at the end of the Tenancy. The Landlord's application shows that the Tenant gave notice on October 15, 2010 to end the Tenancy on October 31, 2010. The Landlord's application states that she requires 30 days notice to fill the vacancy in time. The Tenant has requested on numerous occasions for the return of her complete security deposit of \$450.00

Analysis

As both parties attended the hearing, I am satisfied that the Tenant was given sufficient notice to attend and participate in the hearing based upon the Landlord's application. As both parties have not properly served the other with their evidence packages, I find that I cannot give proper consideration to the evidence that was submitted. The Landlord contends that she should keep the remaining \$400.00 as compensation. The Tenant disputes this.

Section 45 (1) A Tenant may end a period tenancy by giving the Landlord notice to end the Tenancy effective on a date that (a) is not earlier than one month after the date the Landlord receives the notice, and (b) is the day before the day in the month, or in the other period on which the Tenancy is based, that rent is payable under the Tenancy Agreement.

I find that that the Tenant failed to give the proper notice to end the tenancy and as such has breached the tenancy. I am satisfied that the Landlord is entitled to retain the remaining \$400.00 as compensation for loss under the Act. The Landlord's application is granted. As the Landlord has been successful in her application, she is entitled to the

recovery of the filing fee. I grant an order to the Landlord under section 67 for the balance of \$50.00.

Conclusion

The Landlord may retain the security deposit.

The Landlord is granted a monetary order for \$50.00.

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: November 24, 2010.

Dispute Resolution Officer