

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application by the Landlord to retain the security deposit for improper notice to vacate the rental unit by the Tenant and the recovery of the filing fee.

Both parties attended by conference call. The Landlord gave affirmed testimony. The Tenant did not affirm.

Issues(s) to be Decided

Is the Landlord entitled to keep all or part of the security deposit?

Background and Evidence

This tenancy began on May 1, 2007 and continued on a month to month basis as shown by the signed tenancy agreement filed by the Landlord into evidence. The Landlord served the Tenant with the hearing documents and evidence by registered mail on September 7, 2010. The monthly rent was \$709.00 payable on the 1st of each month. An original security deposit of \$330.00 was paid at the beginning of the tenancy. The Landlord has provided a written notice filled out by the Tenant for the termination of the tenancy. In it the Tenant gave notice to vacate the rental unit on February 10, 2010 for a move out date of February 28, 2010. The Landlord states that he was not given proper notice to end the tenancy. The Tenant does not dispute this. The Landlord further states that the day following the date of the notice, the Landlord advertised the rental unit numerous times on craigslist for a rental to start March 1, 2010. The Tenant also assisted in advertising on a Chinese internet website for the

rental. The Tenant states that if the rental unit was rented to someone else for March 1, 2010 the Landlord would return his security deposit. The Landlord states that after numerous attempts to rent the unit, he feels that the state of uncleanness in the rental unit was a major factor in being unable to rent the unit for March 1, 2010. The Tenant completed the clean up on February 28, 2010, but the Landlord was not able to re-rent the unit to new tenants until April 1, 2010 as displayed in the Landlord's evidence of a new signed tenancy agreement.

Analysis

I am satisfied that the Tenant failed to give proper notice to the Landlord to end the tenancy.

Tenant's notice: 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.

Further, the Landlord has exercised due diligence in trying to mitigate the loss of the rental in his efforts to advertise and show the rental unit to more than 4 prospective tenants, but was unable to re-rent until April 1, 2010. I find that the Landlord has established a claim against the Tenant is entitled to retain the \$330.00 security deposit. As the Landlord has been successful in his claim, I find he is entitled to the recovery of the \$50.00 filing fee. The accrued interest for the security deposit is \$8.32 and the Landlord may retain this in partial satisfaction of the outstanding balance. The Landlord is granted a monetary order for \$41.68.

Conclusion

The Landlord is granted a monetary order for \$41.68.

The Landlord may retain the security deposit and accrued interest in partial satisfaction of his claim.

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 21, 2010.

Dispute Resolution Officer