



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MNSD

Introduction

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties .

All testimony was taken under affirmation.

Issue(s) to be Decided

This the request for a monetary order for \$250.00 and a request to retain the full security deposit of \$250.00 in satisfaction of the claim.

Background and Evidence

The applicant testified that:

- At the beginning of the tenancy he collected one full month's rent, \$500.00, as a security deposit.
- He later found out that, under the Residential Tenancy Act, he was only allowed to collect one half a month's rent.
- He therefore agreed to allow the tenant to use the overpayment as partial payment for August 2010 rent.

- The tenant however failed to pay the remainder of the August 2010 rent and therefore the Notice to End Tenancy was issued and the tenant vacated the rental unit on August 17, 2010.
- He did not re-rent the unit in the month of August 2010, and therefore lost the rental revenue for the last half of the month.

The applicant is therefore requesting an order allowing him to keep the remaining \$250.00 portion of the security deposit to cover this lost revenue.

The respondent testified that:

- When he paid a full month security deposit the landlord told him that he was collecting it as the last month's rent.
- Therefore since August 2010 was to be the last month of the tenancy, his rent was already paid in full for that month.
- He therefore did not pay any further rent for the month of August 2010 and was very surprised when the landlord gave him a 10 day Notice to End Tenancy.
- The 10 day Notice to End Tenancy should never been issued because the full rent was paid and therefore since he vacated pursuant to that notice he feels his full \$500.00 last month's rent payment that was paid in advance should be returned.

Analysis

In this case, since there is conflicting evidence between the landlord and tenant, I must look at any supporting evidence presented, which in this case is a copy of the tenancy agreement.



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There is nothing in the tenancy agreement that states that the landlord has collected the first and last month's rent and in fact the \$500.00 that was collected is listed as a security deposit.

Therefore since the Residential Tenancy Act only allows the landlord to collect one half a month rent for a security deposit, the tenant did have the right to apply one half of the security deposit, \$250.00, towards the August 2010 rent however he was still liable for the payment of the other half of the month's rent, because the landlord has the right to retain the security deposit until 15 days after the tenancy ends.

Therefore the tenant should have paid the remaining \$250.00 for the month of August 2010, and since he did not, the landlord's 10 day Notice to End Tenancy was a valid notice.

Therefore since the landlord did not re-rent the unit in the month of August 2010, and lost the rental revenue for the remainder of the month, it is my decision that he does have a valid claim against the remainder security deposit.

Conclusion

I therefore allow the landlords claim for \$250.00 and hereby order that the landlord may retain the full \$250.00 security deposit in satisfaction of that 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: January 11, 2011.

Residential Tenancy Branch