



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has 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 is a request for a monetary order for \$1310.00

Background and Evidence

The applicant testified that:

- The tenants signed a 1 year fixed term tenancy; however they were informed that at the end of the fixed term it would revert to a month to month tenancy.
- The tenants therefore were required under the Residential Tenancy Act to give 1 clear month notice to end the tenancy.
- The tenants gave notice on September 17, 2010, and vacated on October 1, 2010.
- As a result of the short notice, they lost the full rental revenue for October 2010.
- The tenants also left the unit in need of further cleaning.

The applicant is therefore requesting an order as follows:

October 2010 lost revenue	\$1180.00
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Filing Fee	\$50.00
Total	1310.00

The respondent testified that:

- They do not dispute the claim for cleaning.
- They dispute the claim for October rent, because they had informed the landlords at the beginning of the tenancy that they wanted a fixed term as they would be moving at the end of the term.
- They assumed that they had to move, because the landlord did not fill in the Tenancy agreement in full and it was ambiguous.
- They therefore informed the landlord that they would be vacating at the end of the term, just out of courtesy.

The respondents therefore request that the claim for October 2010 rent be dismissed and their full security deposit be returned less the cleaning charges.

Analysis

The testimony from the parties is contradictory; however I have review the documentary evidence provided and although the landlord did not fully complete section 2 of the Tenancy agreement, there is an addendum to the agreement that clarifies the obligations. The first sentence of that Addendum states:

“The tenancy created in this agreement COMMENCES September 2009 And continues on a Month-to-Month basis until cancelled in accordance with the Act.”

Section 45(2) of the Act states:

(2) A tenant may end a fixed term 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,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) 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.

Therefore since the addendum states that the agreement must be cancelled in accordance to the Act, the tenants were required to give 1 clear months notice to end the tenancy and since they did not, they are liable for any loss suffered by the landlord as a result.

I therefore allow the landlords claim for lost rental revenue for October 2010.

I also allow the claim for the filing fee.

The claim for cleaning is undisputed.

Conclusion

I have allowed the full claim of \$1310.00. The landlord may therefore retain the full security deposit of \$590.00 towards this claim and I have issued a monetary order for the difference of \$720.00

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: February 09, 2011.

Residential Tenancy Branch