



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord to keep all or part of the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This 1 year fixed term tenancy began August 15, 2010 with monthly rent of \$2050.00 and the tenants paid a security deposit of \$1025.00. On January 12, 2011 the tenant's gave the landlord written notice that they would be vacating the rental unit on February 15, 2011, rent was due and payable on the 1st of each month.

The landlord testified that it had been very difficult for her to find new tenants for March 1, 2011 and that she was only able to rent the house as of March 31, 2011 and that the current lease is for 4 months and not 12 as the landlord would have preferred. The landlord stated that she placed numerous ads on craigslist for the property and also posted 'for rent' notices at a local college and university. The landlord stated that the tenants were supposed to help her try and find new tenants and they had an agreement that if the landlord did not suffer a financial loss for the tenants breaking the lease that the security deposit would be returned to the tenants.

The landlord in this application is seeking \$2050.00 compensation for the loss of rent for the month of March 2011.

The tenants testified that they had also posted ads on craigslist but no one wanted to sign a year's lease and that landlord would not consider tenants without a 1 year lease. The tenants stated that they had found a tenant who agreed to a 6 month lease but by the time the landlord reconsidered a shorter lease, this tenant had found alternate housing. The tenants maintain that had the landlord removed the 1 year lease requirement sooner or not had it at all that the property could easily have been rented for March 1, 2011 and the tenants referred to the fact that the landlord ultimately entered into a 4 month lease with the current tenants. The tenants stated that they had also suggested to the landlord that she advertise in other newspapers or online site however this was not done.

The landlord directly refuted much of the tenant's testimony and pointed to the fact that by breaking the lease the tenant's caused a financial loss to the landlord and that finding new tenants took much of the landlord's time. The landlord also points to her evidence as to why some of the tenants interviewed were not suitable for the property.

The tenants feel that the \$2050.00 rent for this property is high for the area especially as it is only for the top two floors of the house and does not include the basement.

Analysis

Based on the documentary evidence and testimony I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for loss of rental income due to the property being vacant March 2011. However I do consider that had the landlord made the decision sooner to not require a 1 year lease, the property could have been tenanted by March 1, 2011 and the landlord not suffered a loss of rental income.

I also acknowledge that while the landlord did place numerous ads on craigslist and posted signs in two schools, the landlord certainly had other options open to her for advertising the property but choose to not utilize these options.

Accordingly, I find that the landlord has established entitlement to compensation in the limited amount of \$1025.00.

The landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$1025.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$1025.00 security deposit in full satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$50.00**.

If the amount is not paid by the tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: June 27, 2011.

Residential Tenancy Branch