



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent, to keep all or part of the security deposit 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 tenancy began approximately 4 years ago and on April 4, 2011 the rental unit changed hands through sale of the property and the responsibilities of the landlord transferred with this sale.

The former landlord testified that the tenant has not paid rent for the months of March and April 2011 and owes a total of \$4000.00 in unpaid rent. The former landlord stated that she also wanted the \$1050.00 security deposit returned that had been transferred to the new landlord in the sale of the property.

The tenant maintains that the previous owner gave her security deposit and interest to the new owner without her permission and that she wants it returned to her. The tenant believes this transference of funds should have been discussed with her in order for her provide written or verbal permission and when neither landlord discussed the matter with her, the tenant withheld her March and April 2011 rent. The tenant stated that she was never told who the new landlord was and that she had to contact the realty agent to get that information.

The tenant stated that she wants to pursue a counter claim however this is the landlord's application and it was explained to the tenant that she would be required to file her own application for dispute resolution.

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 unpaid rent. The tenant did not have an order from this office that entitled her to withhold rent from the landlord for the months of April and March 2011 due to her security deposit being transferred to the new landlord.

Conveyance of the tenant's security deposit from the former landlord to the new landlord when a property is sold is a standard legal procedure as the rights and responsibilities of a landlord (and tenant) transfers in whole when a property changes ownership. The new landlord holds the tenant's tenancy agreement and security deposit the same way the former landlord did and there is no obligation to either landlord to obtain a tenant's permission to transfer the security deposit.

I find that the landlord has established a claim for \$4000.00 in unpaid rent.

The landlord has not met the burden of proving that they are entitled to return of the security deposit. The tenant's security deposit was transferred to the new owner in the sale and the new owner, who is now the tenant's landlord, holds the security deposit. The former landlord no longer has any entitlement to the security deposit and may not make a claim against it. This portion of the landlord's application is hereby dismissed without leave to reapply.

As the landlord has some success in their application the landlord is entitled to recover \$25.00 of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$4000.00 in unpaid rent. The landlord is also entitled to recovery of \$25.00 of the filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$4025.00**

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: July 14, 2011.

Residential Tenancy Branch