



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

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

Background and Evidence

This began March 1, 2011 with monthly rent of \$775.00 and the tenant paid a security deposit of \$387.50. On June 13, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- The tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Both parties agreed in this hearing that the notice to end tenancy for cause was served on the tenant because of an on-going issue between the tenant and landlord whereby the landlord believes the tenant to be smoking in the rental but the tenant has repeatedly denied that she smokes.

The tenant testified that she advised the landlord in writing on June 13, 2011 that she would vacate the rental unit by July 15, 2011 and this was done after the landlord served the tenant with the 3rd notice. The tenant stated in this hearing that she would be vacating the rental unit this coming weekend.

The landlord stated that the tenant had not paid the July 2011 rent and an agreement was reached whereby the landlord has agreed to accept ½ month's rent for July and to use the tenant's \$387.50 security deposit to cover the rent owed. The tenant pointed out that her rent had been reduced from \$775.00 to \$750.00 therefore a balance of \$12.50 will be due back to the tenant from the landlord.

Analysis

The tenancy is effectively ending mutually and the parties have reached an agreement on the payment of the July 2011 rent. As the tenant will be vacating the rental unit by July 10, 2011, the tenant is no longer seeking to have the notice to end tenancy set aside.

The landlord has agreed in this hearing to accept ½ month's rent from the tenant for July 2011 and understands that there will be a balance of \$12.50 due back to the tenant. The landlord understands that if necessary she may make an application through this office for damages or cleaning costs. Both parties are aware that cleaning of the suite is required and a move out inspection should be conducted.

As this tenancy is effectively ending by mutual agreement and the landlord accepting ½ month's rent for July, I find that the tenant is entitled to recover \$25.00 of the \$50.00 filing fee.

The tenant will be provided a monetary order for the balance of the security deposit and the filing fee.

Conclusion

I find that the tenant has established a monetary claim for **\$12.50** in return of the balance of the security deposit. The tenant is also entitled to recover \$25.00 of the \$50.00 filing fee.

I find that the tenant has established a monetary claim for **\$37.50** and I grant the tenant a monetary order under section 67 of the *Act* for this amount.

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 6, 2011.

Residential Tenancy Branch