



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 the Landlord's Application for Dispute Resolution, seeking a monetary order for unpaid rent, to keep all or part of the security deposit, and to recover the filing fee for the Application.

Two Agents for the Landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agents testified and submitted evidence that they served the Tenant with the Notice of Hearing and Application by registered mail, which was sent on May 16, 2011. Under the Act registered mail is deemed served five days after mailing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to rent money?

Is the Landlord entitled to keep all or a portion of the security deposit?

Background and Evidence

This tenancy began on December 1, 2010, with the parties entering into a written tenancy agreement. The parties agreed on a monthly rent of \$610.00, and the Tenant paid a security deposit of \$305.00 on November 29, 2010. The tenancy was on a month to month basis.

On or about April 12, 2011, the Tenant gave the Landlord a written Notice to End Tenancy to be effective on April 30, 2011. An Agent for Landlord explained to the Tenant she would be responsible for the rent in May, as she had not given the Landlord a Notice to End as required under the Act or tenancy agreement.

The Landlord did find a different renter, who moved into the rental unit on or about May 16, 2011.

The Landlord claims for \$305.00 as half the rent for May and \$50.00 for the filing fee for the Application.

Analysis

Based on the above, the uncontradicted testimony and evidence, and on a balance of probabilities, I find that the Tenant breached the Act and tenancy agreement by failing to give the required Notice to End tenancy.

Under section 10 of the tenancy agreement the Notice to End tenancy must be, "...given ON OR BEFORE THE LAST DAY OF A CALENDAR MONTH, to take effect on the last day of the ensuing calendar month...". [Reproduced as written.]

This portion of the tenancy agreement reflects the requirements of section 45 of the Act.

The Landlord mitigated its losses by re-renting as soon as possible.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the Tenant's breach of the Act and tenancy agreement has caused a loss of rent for half a month to the Landlord. I find the Tenant must pay compensation to the Landlord.

I find that the Landlord has established a total monetary claim of **\$355.00** comprised of \$305.00 for half a month of rent and the \$50.00 fee paid for this application.

I order that the Landlord retain the security deposit of **\$305.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$50.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant failed to give the Landlord the required Notice to End Tenancy and therefore, owes the Landlord half a month of rent. The Landlord may keep the security deposit, and is granted a monetary order for the balance due.

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: August 25, 2011.

Residential Tenancy Branch