



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This conference call hearing was convened in response to the tenant's application for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the filing fees associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order, and if so for what amount?

Is the tenant entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a townhouse . Pursuant to a written agreement, the fixed term tenancy was to start on August 1st, 2011 and end on August 1st, 2012. The rent was \$1000.00 per month and the tenant paid a security deposit of \$500.00.

The tenant testified that on July 4th, 2011, she viewed the rental unit with S.E., the property manager, and entered into a tenancy agreement that was to start on August 1st. She said that she had paid the security deposit and August rent. She stated that a

week later S.E. told her that the owner would only agree to a 6 month term because the owner intends to sell the property. The tenant said that by that time she had no other alternative than to agree to the shorter term. The tenant stated that on July 26th, the listing agent called and informed her that the owner no longer wanted to rent the unit and that the tenancy was ended. The tenant said that she was away at the time, which made finding alternate living accommodations problematic. She said that she found a rental unit where she pays \$1200.00 per month, which is \$200.00 more than for this unit. The tenant seeks to recover the additional rental cost over the one year fixed term totalling \$2400.00, and one month's rent of \$1000.00 for not being given proper notice to end the tenancy.

In her documentary evidence, the tenant provided a copy of the tenancy agreement that was emailed to her by S.E., outlining the above noted terms. S.E. signed the agreement on July 9th, 2011 and the tenant signed it a day later on the 10th. The tenant said that the parties agreed that she would give the landlord her signed copy upon moving in on August 1st.

S.E. testified that a communication breakdown occurred between her and the owner, and that she acted on assumptions that were not firmly understood. Concerning the tenant's monetary claim, S.E. said that the tenant's son was going to move into the rental unit, bringing the rent to \$1100.00 as stated in the agreement. The tenant stated that the arrangement with her son may or may not have occurred.

Analysis

I accept on the evidence that the parties did originally enter into a one year agreement. The tenant paid the owner a damage deposit and the first month's rent, after which the owner decided to end the tenancy for her own personal gain. I accept the property manager's testimony that there was a communication gap between her and the owner, however this is a no fault of the tenant. There were no provisions under the act for the landlord to end this tenancy. The tenancy agreement is a contract of adhesion drawn by

the landlord. Once signed, the landlord is obliged to accept the terms of the agreement without modification. This contract was repudiated by the landlord before it started, and the landlord had no grounds to end the tenancy.

Concerning the tenant's claim of \$1000.00 for not being provided proper notice; as stated above this is not about the landlord giving proper notice. The landlord had no grounds to give notice; this is about a breach of contract therefore I dismiss this aspect of the tenant's claim.

Concerning the claim for the additional rent of \$200.00 per month the tenant currently pays; the tenant stated that her son may or may not have moved in; I do note that she was willing to pay the additional \$100.00 on the original agreement, and that this arrangement sounded like a reasonable likelihood to happen. I find that the tenant is entitled to recover at least \$100.00 per month for the length of the term of the tenancy.

Conclusion

The tenant established a claim of \$1200.00. Since she was partially successful, she is entitled to partial recovery of the filing fee and pursuant to Section 67 of the Act, I grant the tenant a monetary order for the sum of \$1225.00. This Order may be registered in the Small Claims Court 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: October 26, 2011.

Residential Tenancy Branch