



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 and an order to retain the security deposit in partial satisfaction of the claim. Both the landlord and the tenant participated in the conference call hearing.

I have reviewed all 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 monetary compensation as claimed?

Background and Evidence

The tenancy began on August 1, 2010 as a fixed-term tenancy to end on July 31, 2011, which would revert to a month-to-month tenancy after that date. Rent in the amount of \$725 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$350. The tenancy ended on June 30, 2011. The landlord re-rented the unit on July 15, 2011. The landlord has claimed half a month's rent for July 1 to 15, 2011, in the amount of \$412.50.

The evidence of the landlord was as follows. The tenant gave the landlord written notice on May 31, 2011 that she intended to move out by June 30, 2011. The landlord began advertising to re-rent starting June 1, 2011.

The tenant's response was that she had someone lined up to sublet, and she informed the landlord of this on May 30, 2011 but the landlord refused to allow the subletting. The landlord would not have lost any revenue for the first two weeks of July if she had allowed the subletting.

The landlord replied that there was only one month left in the tenancy agreement, so subletting was not feasible. Furthermore, the landlord wanted to go through the screening process with any prospective new tenants, and she felt that the person to whom the tenant wished to sublet would not have been a good fit.

Analysis

Under section 34 of the Act, if a fixed term tenancy agreement is for six months or more, a landlord must not unreasonably withhold consent for the tenant to assign the tenancy agreement or sublet the rental unit. In this case, the tenancy was for a fixed term greater than six months. The landlord did not provide sufficient evidence that she reasonably considered the tenant's request to assign or sublet. I therefore find that the landlord did not take all reasonable steps to mitigate, or reduce, her loss for the first half of July's rent. The landlord is not entitled to compensation as claimed.

As the landlord's claim was not successful, she is not entitled to recovery of the \$50 filing fee for the cost of her application.

Conclusion

The landlord's application is dismissed.

The landlord must return the security deposit to the tenant. I grant the tenant an order under section 67 for the balance due of \$350. This order may be filed 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 11, 2011.

Residential Tenancy Branch