



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for compensation for unpaid rent, cleaning costs, to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on September 18, 2011, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by registered mail. The tenant gave the landlord's agent the forwarding address on September 1, 2011. A Canada Post tracking number and receipt was provided as evidence of service.

These documents are deemed to have been served in accordance with section 89 of the *Act*; however the tenant did not appear at the hearing.

Preliminary Matter

The application was amended to reflect the information contained in the details portion of the application. The landlord has claimed compensation for loss of rent revenue and cleaning costs up to the amount of security deposit held in trust.

Issue(s) to be Decided

May the landlord retain the deposit paid in satisfaction of the claim for loss of rent revenue?

Background and Evidence

The tenancy commenced in February,, 2011, rent was \$875.00 per month; a deposit in the sum of \$437.00 was paid. The landlord testified this was a fixed term tenancy; there is not a written agreement.

The tenant gave verbal notice on August 3, 2011, that they would vacate; they moved out on September 1, 2011. The landlord located new occupants for September 15,

2011 and he is claiming loss of one half of September rent revenue as a result of the failure of the tenant to provide proper notice ending the tenancy.

Analysis

Pursuant to section 44 of the Act I find that this tenancy ended on September 1, 2011; the date the tenant vacated.

I find that the landlord applied claiming against the deposit within the required timeframe.

In the absence of evidence to the contrary, I find that the tenant failed to give proper notice ending this tenancy. There is no evidence before me that this was a fixed-term tenancy and in the absence of a written agreement I find this was a month-to-month tenancy. The landlord was never given written notice, but understood the tenant would vacate at the end of August, based on verbal notice given on August 3, 2011.

Therefore, in the absence of written notice as required by section 45 of the Act, I find that the landlord did suffer a loss of one half of September rent revenue and that he is entitled to compensation in the sum of \$437.50. Written notice given on August 3, 2011; would have been effective September 30, 2011.

The landlord will retain the deposit in satisfaction of his claim.

The landlord does not wish to receive a monetary order for the balance of his claim including the filing fee costs.

Conclusion

The landlord is entitled to compensation in the sum of \$437.50 for loss of September, 2011, rent revenue.

The landlord will be retaining the tenant's security deposit in the amount of \$437.50, in satisfaction of the monetary claim. The landlord declined a monetary order for filing fee costs.

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: November 30, 2011.

Residential Tenancy Branch