



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 was convened in response to applications by the tenant and the landlords.

The tenant's application is seeking an order as follows:

1. Return of double the security deposit.

The landlords' application is seeking orders as follows:

1. Monetary order for unpaid rent; and
2. To keep all or part of the security deposit.

Issue(s) to be Decided

Is the tenant entitled to the return of double the security deposit?

Are the landlords entitled to a monetary order for unpaid rent?

Are the landlords entitled to keep all or part of the security deposit?

Background and Evidence

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The parties agreed that the tenancy commenced on January 16, 2009. Rent was \$750.00 per month payable on the first of each month. The tenant paid a security deposit in the amount of \$375.00. The tenancy ended on September 30, 2011.

The male landlord testified that in September 2009, the tenant came and asked for a rent reduction for six months while she applied for a disability pension. The landlords agreed to reduce the tenants rent to \$500.00 payable per month and the tenant would pay the landlords the shortfall of \$250.00 per month when her disability pension was approved.

The male landlord further testified that the tenant told them that there was no guarantee on how much she would get from her disability pension, but she would make up the

shortfall of rent somehow. The landlord testified that the tenant started to pay full rent again on April 1, 2010.

The female landlord testified that the tenant asked her if they would consider reducing her rent by \$250.00 for six months while the tenant applied for a disability pension. The female landlord testified that she needed to discuss the issue with the other landlord and all the parties came to an agreement to reduce the rent to \$500.00 per month, and the tenant was to pay the rent arrears at a later date when her disability pension was approved.

The tenant testified that she did ask the landlords to reduce her rent to \$500.00 per month for six months as her employment insurance was running out and she needed to apply for a disability pension, although at no time did she agree to repay the landlords the shortfall of rent.

The tenant testified that she provided the landlords with her forwarding address via text message on October 1, 2011.

The female landlord testified that she did receive a partial address from the tenant on September 30, 2011 via text message. The female landlord read the text message into evidence and the address was incomplete.

The tenant testified that since it was a text message she did not feel that she needed to put the city or province in the text message and further testified that the landlords knew both the city and province anyway.

The male landlord argued that text messaging does not constitute written notice and the forwarding address the tenant provided was not complete. The male landlord further testified that when he received the tenant's application for dispute resolution he considered that was proper written notice of her forwarding address and made his application for dispute resolution within the required timeline under the Act.

Analysis

Based on the testimony, evidence, and on the balance of probabilities, I find as follows:

The parties agreed at the start of the tenancy the rent was \$750.00 per month and starting October 2009, rent was reduced to \$500.00 for six months while the tenant was applying for her disability pension. At the end of the six months the tenant did return to paying rent in the full amount of \$750.00.

Based on the testimony of the parties, I prefer the landlords' testimony over the tenant's testimony. The details of the landlords' testimony, makes logical sense that they would expect the tenant would make up the shortfall of rent. The tenant went to the landlord asking for their help, and both landlords were involved in the discussion to reduce the rent and they both testified that the tenant was to make up for the shortfall of rent when

her disability pension was approved. The landlords testified they knew there was no guarantee the tenant would be able to pay the full amount at one time, but the landlords were expecting the tenant to make arrangements to pay the balance owing to them. I find the landlords are entitled to a monetary for unpaid rent in the amount of \$1,500.00.

Both parties agreed the female landlord received a portion of the forwarding address via text message and the address was not complete. There is no provision under the Act that accepts text messaging as service of a written notice of a forwarding address and in any event, the address the tenant supplied was not complete.

As the landlords have not made a claim for damages to the rental unit the tenant is entitled to the security deposit in the amount of \$375.00. However the landlords have made an application to keep the security deposit to offset rent owed.

The landlords are entitled to a monetary order in the amount of \$1,500.00 for unpaid rent and I order pursuant to section 72 the landlords' monetary order will be offset with the security deposit in the amount of \$375.00. I grant the landlords a monetary order for the balance due of \$1,125.00.

As both parties' applications had merit, I am not awarding the cost for filing fees to either party as these are offset.

Conclusion

I dismiss the tenant's application for double the security deposit.

I grant the landlords a monetary order for unpaid rent and the security deposit will be applied to offset the monetary order. The landlord 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: December 07, 2011.

Residential Tenancy Branch