



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for damages, a monetary order for unpaid rent, to keep all or part of the security deposit, money owed or compensation due to damage or loss and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This fixed term tenancy began January 1, 2011 with monthly rent of \$1795.00 and the tenants paid a security deposit of \$897.50, a pet damage deposit of \$200.00 and a fob deposit of \$40.00. On March 1, 2011 the tenants relocated to a new suite and were given a moving allowance of \$250.00 by the landlord with the condition that the tenants complete a 12 month tenancy.

The landlord testified that as the tenants broke the fixed term tenancy the landlord was seeking \$1795.00 rent for the month of October 2011, \$300.00 in liquidated damages, a \$250.00 moving allowance and \$134.40 in carpet cleaning costs for a total claim of \$2479.40.

The tenant's agent stated that the tenants had been advised by the landlord that with a proper month's notice and the liquidated damages that the tenants could break the fixed term lease. The tenants gave the landlord notice to vacate on August 18, 2011 and vacated the rental unit September 29, 2011. The tenant's agent stated that at no time were the tenants ever told that they would be responsible for the October 2011 rent.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for liquidated damages, a moving allowance and carpet cleaning costs.

The landlord is not entitled to recover rent for the month of October 2011 as the tenant's gave the landlord proper notice and section 3 of the signed tenancy agreement states:

- (i) *To terminate this lease prior to the expiry date on the 20th day of the February , 2012 the Tenant will be required to pay \$300.00 and must give one calendar month's notice.*

As the tenant's gave proper notice and payment of the liquidated damages allows the tenant to break the lease, the landlord is not entitled to recover additional monies for rent. Accordingly I find that the landlord is entitled to a monetary order for \$684.40.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

The landlord currently holds a total of \$1137.50 in deposits and the landlord's total award is \$734.40 which results in a balance of \$403.10 due to the tenant. The landlord is to return this amount to the tenant within 14 days after receiving this decision.

Conclusion

I find that the landlord has established a monetary claim for \$684.40. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep **\$734.40** of the tenant's security deposit in full satisfaction of the claim.

The landlord is to return the \$403.10 balance of the security deposit to the tenants within 14 days after receiving this decision.

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: January 4, 2012

Residential Tenancy Branch

