



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in repose to the landlord's application for an Order permitting the landlord to keep all or part of the tenant's security and pet deposit.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on November 10, 2011. Mail receipt numbers were provided by the landlord's agent in evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to keep all of the tenant's security and pet deposit?

Background and Evidence

The landlord testifies that this month to month tenancy started on May 26, 2011. Rent for this unit was \$525.00 per month and was due on the first day of each month in advance. The tenant paid a security deposit of \$262.50 and a pet deposit of \$262.50 on May 19, 2011. The tenant gave the landlord her forwarding address in writing on October 25, 2011 and moved from the rental unit on that date.

The landlord's agent testifies that the tenant called her 10 days before the tenant moved out to inform the landlord that she would be moving from the rental unit on October 25, 2011. The landlord's agent testifies that she informed the tenant that she needed to give the landlord one clear months notice in writing to end the tenancy.

The landlord's agent testifies that the tenant failed to provide written notice and a move out inspection was conducted with the tenant on October 25, 2011 where the tenant returned the keys and gave her forwarding address to the landlord's agent. The landlord's agent testifies that she informed the tenant that if the unit could be re-rented for November, 2011 all or part of the security and pet deposit would be returned to the tenant on a pro-rated basis. The landlord's agent testifies that the unit was advertised both on the landlord's agents website and weekly in the local paper but the unit was not re-rented until December 15, 2011.

The landlord seeks and Order to keep the security and pet deposit against the loss of rental income for November, 2011 due to improper notice by the tenant to end the tenancy.

Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and affirmed testimony before me. S 45(1) of the Act states

(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Consequently I find the tenant did not provide written notice to the landlord and did not give the landlord notice at least by the last day of September, 2011 to be effective for October 31, 2011. Consequently, I find the landlord has established their claim to keep both the security and the pet deposits to the sum of \$525.00 pursuant to s. 38(4)(b) of the Act.

Conclusion

I HEREBY FIND in favor of the landlords claim to keep the tenant's security deposit of \$262.50 and pet deposit of \$262.50. I ORDER the landlord to keep both deposits' and these sums will be offset against the loss of rental income for November, 2011.

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 27, 2012.

Residential Tenancy Branch