



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to an application made by the landlords for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of this application.

The named landlord attended the conference call hearing and represented the landlord company, gave affirmed testimony, and provided evidence in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents personally on March 3, 2012 the tenant did not attend. The landlord testified to serving the documents personally upon the tenant at the tenant's place of employment which was witnessed by an employee of the landlord however that employee was not called to testify. I am satisfied that the tenant was served in accordance with the *Residential Tenancy Act*.

All evidence and the testimony provided have been reviewed and are considered in this Decision.

Issue(s) to be Decided

- Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Is the landlord entitled to keep all or part of the pet damage deposit or security deposit?

Background and Evidence

The landlord testified that this month-to-month tenancy began on August 1, 2011 and ended on February 29, 2012. Rent in the amount of \$800.00 per month was payable in advance on the 1st day of each month, and there are no rental arrears up to the end of February, 2012. At the outset of the tenancy the landlord collected a security deposit

from the tenant in the amount of \$400.00 which is still held by the landlord, and no pet damage deposit was collected.

The landlord further testified that the tenant did not give the landlord a month's notice to move from the rental unit as required by the *Act*. The tenant sent a text message to the landlord on February 9, 2012 stating that the tenant would be moving out. On February 12, 2012 the tenant sent another text message to the landlord stating that the tenant's new rental unit would not be ready so the tenant would not be moving until the end of March, 2012. On February 20, 2012 the tenant sent another text message to the landlord stating that the tenant was in fact moving. No other notices to move were provided by the tenant. The landlord further testified that the rental unit could not be rented on such notice in the winter time in that particular area of the province, and that if it were fall, there would not be any difficulty renting the suite.

On March 1, 2012 the parties met and prepared and signed an agreement wherein the tenant agreed that the landlord could keep the \$400.00 security deposit to compensate the landlord for damages caused by the tenant and the tenant's pet. A copy of that document was provided as evidence prior to the hearing. The landlord agreed at the hearing that no further claim will be made against the tenant for damages.

The landlord requests a monetary order for loss of revenue for the month of March, 2012 due to the tenant's failure to provide one month's written notice to vacate the rental unit and an order permitting the landlord to keep the security deposit in full satisfaction of any damage claims as agreed in writing by the tenant.

Analysis

The *Residential Tenancy Act* states:

45 (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.

I have reviewed the tenancy agreement, and I find that this tenancy was a periodic, or month-to-month tenancy, and that rent was agreed to be payable in advance on the 1st day of each month. In the circumstances, and in the absence of any evidence to the contrary, I am satisfied that the tenant has failed to provide the landlord with one

month's written notice to vacate the rental unit as required under Section 45 of the *Act*, and therefore, the landlord is entitled to a monetary order for rent for the month of March, 2012 in the amount of \$800.00.

I further find that the tenant agreed in writing that the landlord could keep the security deposit in full satisfaction of any claim the landlord may have for damages caused by the tenant and the tenant's pet.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$850.00.

I further order the landlord to keep the security deposit in the amount of \$400.00 in full satisfaction of any damage claims the landlord may have, and the landlord may not apply for dispute resolution to make further claims for damages as against the tenant.

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: May 04, 2012.

Residential Tenancy Branch