



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 dealt with an application by the tenant for a monetary order for the return of the security deposit, for the return of two month's rent and for the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit, rent and the filing fee?

Background and Evidence

The rental unit is located in the basement of the landlord's home. The landlord lives upstairs. Three tenants occupied the basement and are the applicants in this case. The tenancy began on January 01, 2011 when only one of the three tenants moved into the rental unit for a monthly rent of \$550.00. On January 01, 2012 the other two tenants moved in and the total rent increased to \$800.00.

Both parties offered contradictory testimony with regard to the amount of the security and pet deposit paid. Neither party filed evidence to establish the amount of the deposits. The tenants did not give notice to end the tenancy and started moving out in the middle of February. Both parties agreed that the tenants did not sleep in the unit after February 13, 2012. The tenant also agreed that he did not provide the landlord with a forwarding address.

The tenant is claiming the return of rent for January and February 2012 for a variety of reasons. In a written statement, the tenant states that the landlord entered the unit without notice; the suite is "*illegal, uncomfortable, unlivable and not up to date*". The tenant also stated that the landlord changed the locks to the common area and would not provide keys to the tenant. The landlord argued that the tenant had full access to the unit from the back door and that in the interest of her safety; she changed the common area locks, after the tenant had moved out.

Analysis

The tenant occupied the unit in the month of January, half of February and ended the tenancy without giving adequate notice to do so. Prior to moving in, in January 2011, the tenant probably inspected the unit and accepted the unit in the condition that it was at the time of the start of the tenancy. Therefore, I find that 14 months into the tenancy, the tenant is not in a position to expect the return of rent for the unit being “*uncomfortable, illegal and unlivable*”. Based on the tenant’s reasons for requesting the return of rent for two months, I find that the tenant has not proven an entitlement to the return of rent.

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

In this case, the tenant failed to provide the landlord with his forwarding address in writing and therefore did not receive his security deposit. The tenant is now aware that he must provide the landlord with his forwarding address in writing and allow the landlord 15 days to return the security deposit or make application to keep it.

During the hearing, the forwarding address of the tenant was provided to the landlord. The landlord has 15 days from the receipt of this decision to return the security deposit or to file an application to retain it.

Since the tenant has not proven his case, he must bear the cost of filing this application.

Conclusion

The tenant’s application is dismissed.

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 02, 2012.

Residential Tenancy Branch