



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation- Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the Hearing, the Tenant stated that her name has been spelled incorrectly on the application. The Tenant provided the correct spelling and the application has been amended to show the correct spelling of the Tenant's name.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on March 17, 2012 with rent in the amount of \$800.00 payable in advance on the 17th day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$400.00. The Tenant paid for the first month's rent.

The Landlord states that on April 12 or 13, 2012, the Tenant informed the Landlord that the Tenant would not be moving into the unit. The Landlord submits that an ad was placed on craigslist to find new tenants however the Landlord does not know when this ad was placed or for how long. The Landlord states that it is unknown when the unit was rented out again but that friends of the Landlord were allowed to use the unit for a period of time in order to carry out a film project. The Landlord claims lost rental income for April 17 to May 17, 2012 of \$800.00, compensation for costs for advertising and administration of \$50.00 and recovery of the filing fee. The parties agree that a written tenancy agreement was entered into however it is noted that this was not provided as evidence for the Hearing.

The Tenant states that within a few days following March 17, 2012, the Tenant informed the Landlord that the Tenant would not be moving into the unit. The Tenant states that at this point, the Landlord and Tenant mutually agreed to end the tenancy for April 17, 2012 and to mutually seek out new tenants. The Tenant states that when she came to the unit on April 17, 2012, a film crew was renting the unit.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that costs for the damage or loss have been incurred or established and that steps were taken by the claiming party to minimize or mitigate the costs claimed.

Based on the agreed evidence of the Parties, I find that the Tenant did not provide a full month's notice. Although the Tenant failed to provide such notice, I find that the Landlord has not substantiated a loss of rental income by failing to substantiate that the unit was re-rented at any particular time or that steps were taken to mitigate the loss claimed. I also make this finding based on the evidence of both Parties that a third

party occupied the unit following the end of the tenancy and given the evidence of the Tenant, likely by April 17, 2012. As the Landlord failed to provide corroborating evidence of costs in relation to advertising and administration, I dismiss this part of the claim. As the Landlord has not substantiated a loss of rental income, I dismiss the Landlord's application. As the Landlord still retains the security deposit of \$400.00 plus zero interest, I order the Landlord to return \$400.00 to the Tenant forthwith.

Conclusion

The Landlord's application is dismissed.

I grant the Tenant an order under Section 67 of the Act for **\$400.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: June 19, 2012.

Residential Tenancy Branch