



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on May 17, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5th day after it was mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for lost revenue; for cleaning for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 45, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord testified the tenancy began on May 1, 2010 as a month to month tenancy for the monthly rent of \$900.00 due on the 1st of each month with a security deposit of \$450.00 paid on April 13, 2010.

The landlord submits the tenant provided the landlord with her written notice to end tenancy on April 1, 2012 with an effective date of April 30, 2012. The tenant vacated the unit on or before April 30, 2012. The landlord provided a copy of the tenant's notice.

The landlord submitted documentary evidence that she began advertising the rental unit on April 4, 2012 with local papers and online sites and was able to re-rent the unit effective June 1, 2012 based on a new tenancy agreement signed with a new tenant on May 3, 2012. A copy of the new tenancy agreement was submitted into evidence.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 45(1) of the *Act* stipulates that a tenant may end a tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Section 45(3) states that if a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

As there is no evidence before me the landlord had failed to comply with a material term or that the tenant had given the landlord notice of such a failure I find the tenant was required to give notice to end her tenancy in accordance with Section 45(1). From the evidence before me I find the tenant's notice did not comply with Section 45(1).

As the tenant did not comply with Section 45(1), I find the landlord suffered a loss in the amount of rent in the amount of rent in accordance with the tenancy agreement. I also find the landlord took reasonable steps to mitigate this loss by advertising as soon as possible and entering into a tenancy agreement with a new tenant as early as possible.

As to the landlord's claim for cleaning costs, I find the landlord has provided no evidence of the condition of the unit either at the start or the end of the tenancy and as such as not established there was any requirement to clean the rental unit. I therefore dismiss this portion of the landlord's Application.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$950.00** comprised of \$900.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$450.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$500.00**.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: July 11, 2012.

Residential Tenancy Branch