



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNDC MNSD O MNR FF

Introduction

This hearing dealt with applications by the tenant and the landlord. Tenant applied to cancel a notice to end tenancy, as well as for monetary compensation and recovery of the security deposit. The landlord applied for monetary compensation and an order to retain the security deposit in partial compensation of the claim.

The hearing first convened by teleconference on October 10, 2012. Both the landlord and the tenant attended on that date. A different arbitrator had conduct of the hearing on that date, and determined that due to evidentiary issues, the hearing should be adjourned.

The hearing was reconvened on November 16, 2012, and as the original arbitrator was unavailable and not seized of the matter, it was assigned to me. I determined at that time that evidentiary issues were still outstanding, as the tenant did not receive the landlord's application, and he was unable to prove service. During the teleconference hearing, the tenant verbally provided a new address for service. I adjourned the hearing a second time.

Information on the file shows that the Residential Tenancy Branch attempted to serve notice of the reconvened hearing on the tenant at the new address provided, but the documents were returned. The Residential Tenancy Branch called the tenant on November 29, 2012 and left a voicemail message indicating the time, date, phone number and pass code for the adjourned hearing.

The hearing reconvened by teleconference on December 19, 2012. On that date, only the landlord appeared. The landlord stated that he re-served his application on the tenant by registered mail on November 19, 2012 at the address the tenant had verbally provided in the hearing. I found that the tenant was deemed served with the landlord's application on November 24, 2012, and I proceeded with the landlord's application in the absence of the tenant.

As the tenant did not attend the teleconference hearing on December 19, 2012, her application was dismissed.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began in February 2010, with a monthly rent of \$610 due in advance on the first day of each month. At the outset of the tenancy, the landlord received from the tenant a security deposit of \$297.50.

Landlord's Evidence

The landlord stated that on July 6, 2012, the tenant called the landlord and told him that she wanted to move out. The landlord told the tenant that she would have to provide written notice, but she never provided it.

Two cheques for July 2012 rent were returned for insufficient funds. The landlord served the tenant a notice to end tenancy for unpaid rent. On July 24, 2012, the tenant told the landlord that she was accepting the notice to end tenancy, and she would be moving out by July 31, 2012. The landlord immediately began advertising to re-rent the unit, but was unable to re-rent the unit for August 2012.

The landlord gave the tenant two written notices for opportunities to conduct a move-out inspection, but the tenant refused to participate in the inspection.

The landlord has claimed \$610 for July 2012 rent; \$50 for two NSF cheques; \$25 for a late rent fee for July 2012; \$610 for lost revenue for August 2012; \$25 for a late rent fee for August 2012; and \$20 for priority mail.

Analysis

Based on the undisputed evidence, I find that the landlord is entitled to \$610 for July 2012 rent; \$50 for two NSF cheques; \$25 for a late rent fee for July 2012; and \$610 for lost revenue for August 2012. The landlord is not entitled to the late rent fee claimed for August 2012, as the amount claimed for August is lost revenue, not rent. The landlord is not entitled to his mailing costs, as participants in the dispute resolution process must

bear their own costs related to the process, aside from the filing fee for the cost of the application.

As the landlord was mostly successful in his application, he is entitled to recovery of the \$50 filing fee.

Conclusion

The landlord is entitled to \$1345. I order the landlord to retain the security deposit of \$297.50 in partial compensation of this amount, and I grant landlord an order under section 67 for the balance due of \$1047.50. 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: January 7, 2013.

Residential Tenancy Branch