



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNSD, MNDC, O

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy and a monetary order.

The hearing was conducted via teleconference and was attended by both parties.

During the hearing the tenant testified that she had vacated the rental unit on January 1, 2013. The landlord testified she had not advised him that she had moved out. As such, and with agreement from the tenant I amend her Application to exclude the matter of possession.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property; to a monetary order for compensation; and for all or part of the security deposit, pursuant to Sections 38, 51, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began on November 1, 2009 as a month to month tenancy for a current monthly rent of \$505.50 due on the 1st of each month with a security deposit of \$237.50 paid.

The parties agree the landlord issued the tenant a 2 Month Notice to End Tenancy for Landlord's Use of Property on November 30, 2012 with an effective vacancy date of January 31, 2013. The tenant had provided a copy of the Notice into evidence and the copy shows the landlord had not checked the reason for ending the tenancy on the Notice itself. The landlord confirmed that he had not checked off any box.

The tenant seeks compensation in the amount of \$505.50 as the compensation allowed under Section 51 of the *Act* when a landlord issues a 2 Month Notice to End Tenancy

for Landlord's Use of Property. The parties confirmed the tenant has not paid any rent for the month of January, 2013.

The tenant also seeks return of the security deposit and provided the landlord with her forwarding address in this hearing. The tenant also seeks compensation for registered mail costs for this hearing.

Analysis

Section 51 of the *Act* states a tenant who receives a notice to end tenancy under Section 49 (landlord's use of property) is entitled to receive from the landlord compensation equivalent to one's month rent payable under the tenancy agreement. As such, I find that since the landlord issued the tenant a notice to end the tenancy under Section 49 she is entitled to compensation in accordance with Section 51 in the amount of \$505.50.

However, as the parties agree the tenant did not pay rent for the month of January, 2013 and the tenant did not provide the landlord with any written notice that she intended to vacate the rental unit prior to the effective date of 2 Month Notice I find the tenant has received the above noted compensation by not paying rent for January 2013 when it was due.

In relation to the tenant's claim for return of the security deposit I find the tenant's Application for this to premature as the landlord only found out during the hearing that the tenant had vacated the rental unit and she had not provided her forwarding address to the landlord until this hearing.

I deem that by providing the landlord with her forwarding address during this hearing the tenant has fulfilled this obligation and the landlord must now dispense with the security deposit by either returning it to the tenant or filing an Application for Dispute Resolution seeking to claim against the deposit in accordance with the requirements under Section 38 of the *Act*.

In relation to the tenant's claim for compensation for registered mail costs that she incurred to pursue her Application, I find that these are choices made by the tenant as to how she would serve her documents and therefore not recoverable from the landlord.

Conclusion

For the reasons noted above, I dismiss the tenant's Application in its entirety.

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 11, 2013

