



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to compensation for loss of revenue; to retain all or part of the security deposit paid by the Tenant; and to recover the fee for filing this Application for Dispute Resolution?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began prior to the Landlord purchasing the rental unit on August 30, 2012; that the Tenant was obligated to pay rent of \$725.00 during the latter portion of this tenancy; that rent was due by the first day of each month; and that the Tenant did not have the right to reduce the monthly rent payment in September or October of 2012.

The female tenant stated that a security deposit of \$300.00 was paid in December of 2001 to the original landlord. The Agent for the Landlord stated that he does not know how much of a security deposit was paid, although he speculates that a deposit of \$337.50 was paid in February of 2006.

The Agent for the Landlord stated that on August 29, 2012 the former landlord personally served the Tenant with written notice that the rental unit had been sold, which provides an address for the new Landlord. The Landlord submitted no evidence to corroborate this testimony. The female Tenant stated that she did not receive this written notice from the former landlord until sometime shortly after September 05, 2012, when she met with him to provide him with rent she had collected on behalf of the former Landlord. The female Tenant stated that on September 03, 2012 she located a card with a contact phone number for the new Landlord, but prior to that time she did not have contact information for the new Landlord.

The Landlord and the Tenant agree that on September 03, 2012 the Tenant provided the Landlord with verbal notice of the Tenant's intent to end the tenancy on September 30, 2012 and that the rental unit was vacated by September 30, 2012.

The Agent for the Landlord stated that on September 20, 2012 the rental unit was advertised on a popular internet site; that the posting was renewed on September 30, 2012; and that the posting was amended on October 24, 2012. He stated that the rental unit has not yet been rented.

Analysis

On the basis of the undisputed evidence, I find that the Landlord and the Tenant had a tenancy agreement that required the Tenant to pay monthly rent of \$725.00 by the first day of each month.

On the basis of the testimony of the female Tenant, I find that the Tenant paid a security deposit of \$300.00 in December of 2001. As the Landlord clearly acknowledged that he did not know how much of a security deposit was paid and he speculated that more than \$300.00 was paid, I find that the Tenant's testimony is credible.

I find that the Tenant failed to comply with section 45 of the *Act* when the Tenant failed to provide the Landlord with written notice of the Tenant's intent to end the tenancy on a date that is not earlier than one month after the date the Landlord received the notice and is the day before the date that rent is due. To end this tenancy on September 30, 2012 in compliance with section 45 of the *Act*, the Tenant would have had to provide written notice to the Landlord on, or before, August 31, 2012.

On the basis of the testimony of the female Tenant, I find that the Tenant received a mailing address for the new Landlord no later than a few days after September 05, 2012. Even if I were to accept the Tenant's testimony that the Tenant did not have a mailing address for the new Landlord prior to that time, I find that the Tenant remained obligated to provide the new Landlord with notice to end the tenancy, in writing, as soon as the Tenant obtained a mailing address. As the Tenant never provided the Landlord with written notice to end the tenancy, I find that the Tenant failed to comply with the obligation to provide written notice.

I find that the Landlord made reasonable efforts to find new tenants for October of 2012, although those efforts were hindered by the fact that the Tenant never gave proper written notice to end the tenancy, so the Landlord did not have legal possession of the rental unit until the Tenant vacated the rental unit on September 30, 2012. I find that the improper notice provided by the Tenant significantly contributed to the loss of revenue experienced by the Landlord in October of 2012, as the Landlord could not rent it until the Landlord had legal possession of the unit. I therefore find that the Tenant must compensate the Landlord for this lost revenue, in the amount of \$725.00.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$775.00, which is comprised of \$725.00 in lost revenue and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the security deposit of \$300.00, plus interest of \$11.42, in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the amount \$463.58. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 07, 2013.

