



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 applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for a monetary order for rent owed and the tenant applied for a refund of their security deposit.

Despite being served by registered mail sent on January 15, 2013, as confirmed by the Canada Post tracking number, the tenants did not appear. The hearing proceeded in the tenant's absence.

Issue to be decided

Is the landlord entitled to compensation for unpaid rent?

Background and Evidence

The tenancy started January 1, 2013. The rent was \$700.00 per month and a security deposit of \$350.00 was paid.

The landlord testified that the tenant failed to pay rent due on January 1, 2013 and the landlord granted them an extension to pay until January 5, 2013. The landlord testified that, on that date, instead of paying, the tenant advised the landlord that they would not be residing in the unit, as they could not come up with the rent.

The landlord testified that the tenant terminated the tenancy without proper notice and failed to pay the rent. The landlord testified that they managed to re-rent the unit on January 15, 2013 and therefore suffered a loss of half a month's rent. The landlord testified that they want to keep the tenant's security deposit in satisfaction of the debt.

Analysis:

Section 16 of the Act states that the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered

into, whether or not the tenant ever actually occupies the rental unit. I, therefore, find that this tenancy began on January 1, 2013.

In regard to the rental arrears, I find that section 26 of the Act states that rent must be paid when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement. In this case, I find that the first month rent was due on January 1, 2013.

Section 45 (1) of the Act allows a tenant to end a month-to-month tenancy by giving the landlord written notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Given the above, I find that the tenant violated the Act by giving the landlord insufficient Notice to terminate the tenancy and by failing to pay the rent when it was due.

Based on the evidence, I find that the landlord is entitled to compensation of \$350.00, which can be satisfied by retention of the tenant's \$350.00 security deposit.

I hereby dismiss the tenant's application in its entirety without leave.

I order that the landlord retain the tenant's security deposit in full satisfaction of the claim.

Conclusion

The tenant's application is dismissed in its entirety without leave and the landlord's cross application is successful with an order to retain the tenant's security deposit in full satisfaction of the claim.

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: April 02, 2013

Residential Tenancy Branch