



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NYSTAR DEV. CORP. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNSD, OLC, FF

Introduction

In the first application the landlord, which I find to be the limited company, seeks to recover rent for April 2013 arguing that the tenant did not give sufficient notice to terminate her tenancy. In the second application the tenant seeks to recover a \$547.50 security deposit, doubled pursuant to the provisions of s. 38 of the *Residential Tenancy Act* (the “Act”).

Issue(s) to be Decided

Does the relevant evidence presented at hearing show, on a balance of probabilities, that either party is entitled to the relief claimed

Background and Evidence

The rental unit is a one bedroom apartment. The tenancy started in October 2011. The monthly rent, due on the first of each month, was \$1095.00.

At the start of March 2013 an accommodation the tenant was hoping for came available and in order not to lose it she rented it effective April 1, 2013. On March 3rd she sent the landlord an email that she would be moving out March 31. The landlord quickly responded saying her notice was not a sufficient one and though a new tenant would be sought, the tenant might be liable for April rent.

The tenant returned the keys and gave a forwarding address in writing on April 2nd.

The landlord advertised for a new tenant at the same rent but could not find one to start before May 1.

Analysis

The tenant argues that because the landlord did not give her possession of her rental unit for three days back in October 2011, she should be entitled to shorten the one month period of her notice to terminate the tenancy. The law does not allow the tenant to impose that offset on her landlord.

The tenant's notice, given March 3rd, could only be lawfully effective April 30th and unless the landlord or the tenant found a replacement or succeeding tenant, she is responsible for the April rent.

I find the landlord took reasonable steps to mitigate against the loss of April rent but was unable to do so. The tenant is therefore responsible to the landlord for the April rent of \$1095.00. I award the landlord \$1095.00 plus the \$50.00 filing fee.

I dismiss the tenant's claim for a doubling of her security deposit. The landlord appears to have applied within the 15 day period imposed by s. 38 of the *Act*.

Conclusion

The tenant's application is dismissed.

The landlord's application is allowed. I award it \$1145.00 and authorize it to retain the \$547.50 security deposit. There will be a monetary order against the tenant for the balance of \$597.50

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: May 17, 2013

Residential Tenancy Branch

