



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding JKL Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with an application by the tenant for monetary compensation. The tenant, an agent for the tenant and an agent for the landlord participated in the teleconference hearing.

At the outset of the hearing, the landlord indicated that they were identified incorrectly on the tenant's application. With the consent of the tenant, I amended the application to reflect the correct spelling of the landlord's name.

During the hearing, the tenant stated that he had included some email evidence that the landlord stated they did not receive. I told the parties that if I determined that evidence was relevant to my decision in this matter, I would reconvene the hearing and allow the tenant the opportunity to re-serve that evidence on the landlord. Upon consideration of the evidence I find that the email evidence referred to by the tenant is not relevant to my decision in this matter, and I therefore do not find it necessary to reconvene the hearing.

I have reviewed all testimony and other admissible evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on August 1, 2012 as a fixed-term tenancy to end on July 31, 2013, with monthly rent of \$1050 due in advance on the first day of each month. On January 26, 2013, the tenant gave the landlord written notice that he intended to move out of the rental unit on February 1, 2013. The tenant paid rent of \$1050 for February 2013 but

moved out on February 1, 2013. The landlord re-rented the unit for March 1, 2013. The tenant has applied for recovery of February 2013 rent.

Tenant's Evidence

The tenant stated that he ended the tenancy early because he was unable to resolve several issues with the landlord, including the landlord's requirement that the tenant only keep his window open for 15 minutes a day, and the landlord's harassment of the tenant's guests. The tenant questioned the landlord's efforts to mitigate loss and re-rent the unit as soon as possible, given that the location of the rental building, in the Vancouver West End, is a highly-desirable neighbourhood and most suites are re-rented within on day to one week of advertising. The tenant submitted that the landlord never intended to attempt to re-rent the unit for February 2013 after having received the tenant's rent for that month.

Landlord's Response

The landlord stated that they did attempt to mitigate and re-rent the unit as soon as possible but they were unable to do so, particularly with only 6 days of notice. The landlord denied harassing the tenant or his guests and stated that the tenant was aware of the building's rules. The landlord submitted that the tenant chose to end the fixed-term tenancy early without the landlord's agreement, and therefore the tenant was accountable for the rent for February 2013.

Analysis

I find that the tenant is not entitled to recovery of rent paid for February 2013. The tenant chose to end the tenancy rather than apply for dispute resolution to resolve his problems with the landlord. The tenant only gave the landlord 6 days of notice before vacating. The tenant was obligated to pay rent on February 1, 2013, and the landlord was entitled to receive that rent. The landlord was not obligated to mitigate the tenant's loss; as this was the tenant's monetary claim, it was his obligation to mitigate his loss.

As the tenant's application was unsuccessful, he is not entitled to recovery of the filing fee for the cost of his application.

Conclusion

The tenant's application is dismissed.

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 28, 2013

Residential Tenancy Branch

