



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Executive Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNR, FF

Introduction

This is an application for a Monetary Order for \$1500.00, recovery of the \$50.00 filing fee, and a request to retain the full security/pet deposit of \$1500.00 towards the claim.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not the landlord has established a claim for outstanding rent totaling \$1500.00 for the month of February 2013.

Background and Evidence

The applicant testified that:

- The tenant lived in the rental unit for the full month of February 2013, and failed to pay any rent for that month.
- They are therefore requesting an order for the outstanding February 2013 rent in the amount of \$1500.00.

The respondent testified that:

- At the beginning of the tenancy they signed a six-month lease that was to end on May 31st 2013.
- On January 31, 2013 the landlord served her with a one-month Notice to End Tenancy that stated that the rental unit must be vacated to comply with the government order. This notice required her to vacate the rental unit on February 28, 2013.
- On January 31, 2013 when she was given the notice, the landlord stated, in front of numerous witnesses, that since she was required to move before the end of her tenancy agreement, she would not be required to pay the February 2013 rent, and that he would discuss further compensation with her when she returned from her trip on February 17, 2013.
- The landlord later called her to make her an offer of a further \$2000.00 compensation for moving expenses, if I mutually agreed to vacate at the end of February 2013.
- On February 8, 2013 the landlord stated he was revoking all offers of compensation and stated that the tenant was being evicted for nonpayment of rent for the month of February 2013.
- When the landlord was reminded that there were four witnesses to his statement that he would not be charging for February 2013 rent, the landlord recanted and told them to prepare the agreement on paper and he would forward it to the owners for signing.
- On February 9, 2013 she sent the agreement by registered letter to the landlord, agreeing to move out on February 28, 2013, and agreeing to the compensation of no rent for February 2013 and \$2000.00 for moving expenses.
- Although the landlords never signed the agreement, there is ample evidence to show that February 2013 rent was not required to be paid and she therefore asks that this application be dismissed.

In response to the tenant's testimony the landlord testified that:

- There were some discussions over compensation for having to move, but no agreement was ever reached.
- He composed a Mutual Agreement to End Tenancy document that had an addendum stating that the tenant would not be required to pay February 2013 rent and would get \$500.00 in cash if she moved out at the end of February 2013, however the tenant never signed the agreement and therefore he does not believe he is bound by that agreement.

Analysis

It is my finding that the tenant is not required to pay the February 2013 rent.

Both the landlord and tenant have testified that there were discussions over compensation that included free February 2013 rent, and although the parties have not come to a formal agreement, it is my finding that that is most likely due to the fact that they could not agree on additional compensation.

In the tenants February 9, 2013 letter they agree to no charge for rent for February 2013 and agree to \$2000.00 compensation to cover moving expenses.

In the landlord's Mutual Agreement to End Tenancy addendum, the landlord agrees that the tenant will not have to pay February 2013 rent and offers \$500.00 compensation.

The landlord never formally accepted the tenants offer, nor did the tenants ever formally accept the landlords offer, however in both offers February 2013 rent was not to be paid.

I therefore will not allow the landlords claim for February 2013 rent, or recovery of the filing fee.

Conclusion

The landlords claim is dismissed in full without leave to reapply and I've issued a Monetary Order for return of the \$1500.00 security/pet deposit to the tenant.

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: June 05, 2013

Residential Tenancy Branch

