



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Imperial Apartments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This was a hearing with respect to applications by the tenant and by the landlord. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing but the tenant did not attend although the hearing was kept open for more than 10 minutes after the scheduled commencement time.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount.
Is the landlord entitled to a monetary award for loss of rental income?

Background and Evidence

The rental unit is an apartment in Maple Ridge. The tenant agreed to rent the apartment and paid the landlord a \$325.00 security deposit on April 24, 2013. The tenant paid rent for May in cash in the amount of \$650.00 on May 1, 2013. The former occupants of the rental unit did not move out before May 1, 2013 as required and the landlord was unable to give possession of the rental unit to the tenant. The landlord said that the former tenant was evicted but did not vacate the suite until May 5th. The landlord offered the tenant another suite across the hall until the rental unit could be readied for occupancy. The tenant initially agreed and then changed his mind. In a statement to the Residential Tenancy Branch the landlord said that the landlord's representative spoke to the tenant on May 7th and offered the tenant a half month's rent refund for the inconvenience and told him he could move in right away. The landlord said that the tenant stated: "that he had found another place so he was told he would get the full amount back that he paid \$975.00 by the end of that day, he refused and said he is going to be suing..."

After the landlord received the tenant's claim for payment in the amount of \$3,000.00 the landlord filed its own claim to request payment of \$650.00 for loss of revenue.

At the hearing the landlord's representative said that the landlord was always willing to return the tenant's security deposit and rent payment, but the landlord filed its own application when it was faced with the tenant's claim for payment of \$3,000.00.

Analysis

The tenant did not attend the hearing and did not submit documentary evidence to support a claim greater than the amount of the security deposit and first month's rent payment. I accept the landlord's evidence that it was prepared to return the tenant's deposit and rent payment, but the tenant refused the payment and said he would sue for additional amounts, after which he filed his application for dispute resolution on May 8, 2013. The tenant did not attend the hearing and has not proved entitlement to any additional amounts beyond the sum of \$975.00 that he paid to the landlord.

Conclusion

Upon the evidence presented, including the landlord's documentary evidence, I find that the tenant is entitled to the return of the \$325.00 security deposit and the \$650.00 rent payment for a total of \$975.00. . The tenant's claim for an amount exceeding \$975.00 is dismissed without leave to reapply. I find that the landlord was put to the expense of filing an application unnecessarily because the tenant refused its offer to return the full amount of his payments to him when he declined to rent the apartment. The landlord's application for a monetary award is dismissed, but I find that the landlord is entitled to recover the \$50.00 filing fee paid for its application for dispute resolution from the amount due to the tenant, leaving a net amount due to the tenant of \$925.00. I grant the tenant a monetary order under section 67 in the amount of \$925.00. This order may be registered in the 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: August 02, 2013

Residential Tenancy Branch

