



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNSD MNDC FF O

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord, two tenants and a witness for the tenants participated in the conference call hearing.

At the outset of the hearing, the tenant confirmed receiving the landlord's application and the landlord confirmed receiving the tenants' evidence. However, the landlord did not serve his additional documentary evidence on the tenant, and I did not admit that evidence. 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 landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on October 21, 2011. Rent in the amount of \$1795 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$897.50. The tenancy ended on March 31, 2013.

Landlord's Claim

The landlord stated that he did not know that the tenants were moving out until March 31 or April 1, 2013, as the tenants had not given any written notice. The landlord stated that he attempted to re-rent the unit but was not able to do so because he did not have notice and because the tenants left the rental unit in a complete shambles. The landlord

is claiming \$1795 in lost revenue for April 2013, as well as \$175 in late rent fees and \$2,100 to replace rugs that the tenant absolutely ruined.

Tenant's Response

The tenant stated that he made several attempts to call the landlord and give notice, including leaving phone and email messages. The landlord never gave the tenant an address for service, and the landlord was unavailable for months at a time throughout the tenancy. The tenant confirmed that he did authorize the landlord to keep a portion of the security deposit to cover damages.

Analysis

Upon consideration of the evidence, I find that the landlord is not entitled to any portion of his claim.

I accept the evidence of the tenants that the landlord did not give the tenants an address for service, and the landlord was unavailable for lengthy periods of time, so the tenants could not give the landlord written notice of their intention to vacate the rental unit. The landlord did not provide evidence to contradict this evidence of the tenants. Therefore, the landlord is not entitled to the lost revenue claimed for April 2013.

The landlord did not provide evidence to support his claims for either the late rent fees or the carpet damage, and I therefore find the landlord is not entitled to these portions of his claim.

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

Conclusion

The landlord's application is dismissed.

The landlord continues to hold the security deposit in trust. Neither party presented evidence of the amount of the deposit that the tenants authorized the landlord to keep, so I cannot issue a monetary order to the tenants for the balance of the deposit. The landlord must, however, return the balance of the deposit to the tenants. If the landlord does not do so, it is open to the tenants to apply for recovery of the balance of the security deposit.

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: October 7, 2013

Residential Tenancy Branch

