



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, O

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for a Monetary Order to recover the security deposit; and other issues.

The tenant, the tenant's advocate and the landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Preliminary Issues

The tenant agrees that no security deposit has been paid and this section of her application was checked in error. The parties advised me there was an error in spelling of the landlord's first name. The parties did not raise any objections to the error being corrected and this has now been amended.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The parties agree that this tenancy was due to start on July 01, 2013 for a fixed term tenancy of one year. The tenant paid rent of \$650.00 prior to the tenancy starting and signed a tenancy agreement with the landlord.

The tenant testifies that she did not move into the unit as the previous tenant had not moved out on July 01, 2013. The tenant testifies that her truck also broke down on that date and as there was no bus service, early in the morning, from the rental unit to the tenant's place of work. The tenant decided she could not move into the unit and informed the landlord of this on July 02, 2013. The tenant testifies that she had not yet received the key as to the unit and therefore the tenant requests the landlord to return the rent paid for July of \$650.00.

The landlord agrees that the tenant paid \$650.00 in rent for July. The landlord testifies that the outgoing tenant had moved out by 1.00 p.m. on July 01, 2013. If that tenant had overheld any longer then the landlord was willing to compensate the incoming tenant for that delay. The landlord testifies that on July 02, 2013 the tenant informed the landlord that her truck had broken down and the tenant could not afford to fix it. The landlord testifies that she notified the tenant that the suite was still hers and that there was a bus service one block away. However, the tenant told the landlord that she could not move into the unit as the bus did not run early in the morning when the tenant needed to go to work.

The landlord testifies that she immediately contacted two of the other prospective tenants who had been interested in the suite but they did not rent it. The advertisement

was left running for the suite in order to re-rent it was quickly as possible. At the end of July another tenant agreed to rent the suite for September 01, 2013. The landlord disputes the tenant's claim to recover the rent paid as the tenant broke the fixed term agreement when she failed to move into the suite.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to the residential Tenancy Act s. 45(2) which states:

(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The tenant and landlord both signed the tenancy agreement which allowed the tenant to rent this unit from July 01, 2013 to June 30, 2014. The tenant chooses not to move into the unit and gave the reason that her truck broke down and without her truck the tenant would not be able to get to work. Unfortunately there is no provision under the *Act* for the tenant to end the tenancy agreement for this reason. Consequently, the landlord is entitled to the rent paid for the unit for July, 2013. The tenant's application to recover this rent is therefore dismissed.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

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 22, 2013

Residential Tenancy Branch

