



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD

Introduction

This is an application filed by the Landlord for a monetary order for unpaid rent and to keep the security deposit to offset this claim.

The Landlord's Agent, T.C. attended the hearing on behalf of the Landlord. The Tenant did not attend or submit any documentary evidence. The Landlord states that the Tenant was served with the notice of hearing package by Canada Post Registered Mail on August 7, 2013 and has provided a copy of the Customer Receipt Tracking number as confirmation.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

The Landlord states that a 1 month notice to end tenancy dated July 25, 2013 was served upon the Tenant to be effective on August 31, 2013. The Landlord states that the Tenant did not dispute the notice and in fact moved out of the rental on July 30, 2013 without providing any notice to the Landlord. The Landlord is seeking to keep the \$280.00 security deposit in lieu of the \$575.00 monthly rent that was due for August 2013. The Landlord has submitted copies of the 1 month notice dated July 25, 2013, a tenancy agreement and various letters regarding issues of the move-out inspection and the reasons for cause for the 1 month notice. The Landlord's Agent also states that efforts were made to re-rent the unit for September 2013 in mid August approximately 1 week after filing an application for dispute.

The Landlord's Agent seeks an order to retain the \$280.00 security deposit in lieu of the \$575.00 monthly rent that was due for August 2013.

Analysis

Residential Tenancy Branch Policy Guideline #5, Duty to minimize states,

Claims for loss of rental income

In circumstances where the tenant ends the tenancy agreement contrary to the provisions of the Legislation, the **landlord claiming loss of rental income must make reasonable efforts to re-rent the rental unit or site at a reasonably economic rent**. Where the tenant gives written notice that complies with the Legislation but specifies a time that is earlier than that permitted by the Legislation or the tenancy agreement, the landlord is not required to rent the rental unit or site for the earlier date. The landlord must make reasonable efforts to find a new tenant to move in on the date following the date that the notice takes legal effect. Oral notice is not effective to end the tenancy agreement, and the landlord may require written notice before making efforts to re-rent. Where the tenant has vacated or abandoned the rental unit or site, **the landlord must try to rent the rental unit or site again as soon as is practicable**.

I find based upon the undisputed testimony of the Landlord's Agent, T.C. that a claim to retain the security deposit of \$280.00 has not been established. The Landlord failed to mitigate any possible losses by attempting to re-rent the unit for August as opposed to September 2013. The Landlord's claim is dismissed. As such, the Tenant is entitled to recovery of the \$280.00 security deposit. The Tenant is granted a monetary order for \$280.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord's Application is dismissed.

The Tenant is granted a monetary order for \$280.00.

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: November 06, 2013

Residential Tenancy Branch

