



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MUKS KUM OL HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPB, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution, made by the Landlord requesting an order of possession based on the breach of an agreement, a monetary order for money owed or compensation under the Act, to keep the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified the Landlord had served the Tenant with the Notice of Hearing and the Application for Dispute Resolution by registered mail, sent on November 5, 2013. Under the Act, registered mail is deemed served five days after mailing. The Agent for the Landlord further testified that the Tenant received the mail and came to her and asked for a further extension to the tenancy. The Agent informed the Tenant he would have to appear at the hearing to request this. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue

The Agent for the Landlord testified that the Tenant vacated the rental unit before the end of November around the middle of the month, and therefore, an order of possession is no longer required. This portion of the Landlord's Application is therefore dismissed with leave to reapply.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenant?

Background and Evidence

This tenancy began on April 18, 2011, with the parties entering into a written tenancy agreement. The Tenant paid the Landlord a security deposit of \$122.00 and the monthly rent was \$675.00.

On or about August 13, 2013, the Landlord issued the Tenant a one month Notice to End Tenancy for cause, with an effective date of September 30, 2013.

On October 1, 2013, the Landlord and the Tenant signed a mutual agreement to end the tenancy effective at 1:00 p.m. October 31, 2013.

Copies of the above documents were entered into evidence.

On November 1, 2013, the Tenant still had not vacated the rental unit and the Landlord filed this Application. The Tenant vacated the rental unit around the middle of November 2013.

The Landlord requests rent for the month of November in the amount of \$675.00, the filing fee for the Application and to keep the security deposit in partial satisfaction of the claim.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenant has breached the Act and the mutual agreement to end tenancy, by failing to vacate the rental unit on the agreed upon date of October 31, 2013.

By failing to vacate the rental unit and staying in it well into the month of November, the Tenant has prevented the Landlord from renting the unit out for November of 2013. Therefore, I find the Tenant has caused the Landlord to suffer a loss of one month of rent and the Tenant is required to pay the Landlord the rent for all of November of 2013.

Although the Landlord would be entitled to an order of possession in these circumstances, I find it is unnecessary to issue one as the Tenant has vacated the rental unit and that portion of the Application is dismissed with leave.

Based on the above, I find that the Landlord has established a total monetary claim of **\$725.00** comprised of \$675.00 for November rent and the \$50.00 fee paid for this application.

I order that the Landlord retain the deposit of **\$122.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$603.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant breached a mutual agreement to end the tenancy and stayed in the rental until the middle of November 2013. The actions of the Tenant prevented the Landlord from renting the unit out for November and I find the Tenant is therefore responsible to pay the Landlord all the rent for November 2013. The Landlord is allowed to keep the security deposit and is granted a monetary order for the balance due.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: December 16, 2013

Residential Tenancy Branch

