



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wing Lee Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNSD MNDC FF

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. An agent for the landlord and both tenants participated in the teleconference hearing.

In the hearing, the landlord and the tenants were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on April 15, 2012, first as a fixed-term tenancy, and then reverted to a month-to-month tenancy after March 15, 2013. Rent in the amount of \$1450 was payable in advance on the first day of each month. At the outset of the tenancy, tenants paid the landlord a security deposit of \$725 and a pet deposit of \$725. On April 14, 2012 the landlord and the tenants carried out a move-in inspection and completed a condition inspection report.

On January 15, 2014 the tenants gave the landlord written notice of their intention to vacate the unit on or before February 15, 2014. The landlord and the tenant carried out a move-out inspection on February 8, 2014, and the tenant gave the landlord the forwarding address in writing on that date and vacated the unit.

Landlord's Claim

The landlord stated that when they received the notice to vacate, they informed the tenants that the notice must be for February 28, not February 15. In the hearing, the landlord's agent did not have information regarding when the unit was re-rented.

The landlord claimed \$285 in unpaid rent from September 2013; \$1450 in unpaid rent and lost revenue for February 2014; \$25 for a late fee for February 2014, as per the tenancy agreement; and \$30 for registered mail costs.

Tenants' Response

The tenants stated that because their tenancy began on the 15th of the month, they thought their notice to vacate should be for the 15th. The tenants were told that new tenants were moving into the unit before the end of February 2014.

Analysis

I accept the landlord's evidence, not disputed by the tenants, that the landlord is entitled to \$285 in unpaid rent for September 2013.

In regard to February 2014, I find as follows. When rent is due on the first day of the month, a tenant's notice to vacate must be given one month in advance the day before rent is due. In this case, rent was due on the first of the month, and therefore the tenants' notice to vacate ought to have been given either on or before December 31, 2013 to vacate by January 31, 2014, or on or before January 31, 2014 to vacate by February 28, 2014. However, the landlord did not provide evidence that they attempted to re-rent the unit as soon as they received the tenants' notice to vacate; and the landlord could not provide evidence of when the unit was re-rented. I therefore find that for the month of February 2014, the landlord is only entitled to rent for the 8 days that the tenants occupied the unit, pro-rated at \$51.79 per day, for a total of \$414.32.

I find that the landlord is entitled to the \$25 late fee claimed for February 2014, as per the tenancy agreement.

The landlord is not entitled to the amount claimed for registered mail costs, as the only cost associated with the dispute resolution process that is normally recoverable is the filing fee.

As the landlord's application was partially successful, I find they are entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The landlord is entitled to \$774.32. I order that the landlord retain this amount from the pet and security deposits in full satisfaction of the claim. I grant the tenants an order under section 67 for the balance of the deposits, in the amount of \$675.68. This order may be filed 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: June 3, 2014

Residential Tenancy Branch

