



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the landlord under *the Residential Tenancy Act* (the Act) to retain the security deposit in satisfaction of revenue losses for tenant's breach of the tenancy agreement. The landlord orally waived their claim respecting the filing fee.

I accept the landlord's evidence that despite the tenant having been personally served with the application for dispute resolution and notice of hearing in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to compensation for loss of revenue?

Background and Evidence

The undisputed relevant testimony in this matter is that the tenancy started January 15, 2014 as a month to month tenancy. Under the tenancy agreement rent in the amount of \$750.00 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit and a pet damage deposit from the tenant in the sum amount of \$750.00. The tenant provided the landlord with Notice to End by phone on April 23, 2014 to vacate the unit April 30, 2014. As a result the landlord claims they lost rent revenue for the following month of May 2014.

The landlord testified they immediately sought to re-rent the unit by advertising online and in the local newspaper but were unsuccessful for May 01, 2014.

Analysis

On preponderance of the evidence in this matter, I have reached a Decision upon the following findings.

I find the tenant ended the month to month tenancy without providing the landlord with the prescribed Notice to End the tenancy in accordance with **Section 45** of the Act, which in relevant part states as follows,

Tenant's notice

45 (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.

(4) A notice to end a tenancy given under this section must comply with section 52 *[form and content of notice to end tenancy]*.

Section 7 of the Act states as follows:

Liability for not complying with this Act or a tenancy agreement

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

As a result of the tenant's non compliance with the Act, I accept the landlord's evidence that under the circumstances with which they were presented the landlord took reasonable steps to minimize and avert future losses of revenue for them. I find the landlord has met the above test for loss. I find the landlord has provided sufficient evidence to support their claim and as a result are owed compensation for loss for May 2014 revenue. Therefore, **I grant** the landlord their request on application.

Conclusion

I Order that the landlord may retain the deposits of this tenancy, in the sum of \$750.00, in full and final satisfaction of their claim.

This Decision is final and binding on both parties.

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: September 02, 2014

Residential Tenancy Branch

