



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

The Agent for the Landlord stated that on July 07, 2014 the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the Tenant, via registered mail. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

The Tenant stated that she would like to submit documentary evidence after the hearing is over. She was advised that documentary evidence must be submitted prior to the start of the proceedings and that I would not be considering anything that is submitted after the conclusion of the proceedings.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent and to keep all or part of the security deposit?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began in 2007 and that the Landlord and the Tenant (female Respondent) signed a tenancy agreement at that time,

which was submitted in evidence. The parties agree that the male Respondent, who was a child at the time the agreement was signed, is named as an occupant on the agreement.

The Landlord and the Tenant agree that the Tenant paid a security deposit of \$425.00 and a pet damage deposit of \$425.00 on August 09, 2007.

The Landlord and the male Respondent agree that they never entered into a tenancy agreement, either verbally or in writing.

The Landlord and the Tenant agree that the tenancy agreement indicates that the monthly rent is \$850.00, due by the first day of each month, but that the Tenant's rent is subsidized. The Landlord submitted documents that show the rent for the unit has increased over the years and that, effective September 01, 2013, the rent was \$1,020.00.

The Agent for the Landlord stated that in April of 2014 the Tenant was obligated to pay subsidized rent of \$550.00, which was based on household income. The Tenant stated that in April of 2014 she was obligated to pay subsidized rent of \$500.00, which was based on her household income.

The Agent for the Landlord stated that when the male Respondent became an adult the amount of the subsidy was adjusted to reflect his income, given that he was living in the rental unit. She stated that the subsidized rent for the unit was increased to \$785.00, effective May 01, 2014.

The Landlord submitted a letter, dated April 24, 2014, which declares that the rent contribution has been increased to \$785.00. The Tenant acknowledged receipt of this letter. The Landlord submitted an undated document which declares that the rent as of September 01, 2011 was \$500.00 and that the subsidized rent as of May 01, 2014 was \$785.00.

The Tenant argued that the rent subsidy of \$785.00 has been calculated incorrectly, although she submitted no documentary evidence to support that assertion. The Agent for the Landlord stated that the rent subsidy was calculated on the combined household income.

The Landlord and the Tenant agree that \$425.75 in rent was paid for May of 2014 and \$425.75 was paid for June of 2014. The Landlord is seeking compensation, in the amount of \$379.25 for rent owed for May of 2014 and \$379.25 for rent owed for May of 2014.

Analysis

On the basis of the undisputed evidence, I find that the Landlord and the male Respondent did not enter into a verbal or a written tenancy agreement. I therefore find that the male Respondent is not obligated to pay rent to the Landlord for this tenancy agreement and I dismiss the Landlord's application for a monetary Order that names this party.

On the basis of the undisputed evidence, I find that the Tenant (female Respondent) entered into a written tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$850.00 by the first day of each month, although the rent has been increased since that date to \$1,020.00, effective September 01, 2013. I therefore find that the Tenant is currently obligated to pay monthly rent of \$1,020.00 unless the Landlord agrees to reduce the rent by virtue of a rent subsidy.

On the basis of the undisputed evidence, I find that the Landlord has reduced the rent by varying amounts since the start of the tenancy, after applying a rent subsidy calculated on the basis of household income. I find that the Landlord applied a rent subsidy, effective May 01, 2014, which reduced the rent to \$785.00. I have no jurisdiction over the amount of the subsidy applied to the monthly rent.

I can either require the Tenant to pay the monthly rent required by the tenancy agreement, which in these circumstances is at least \$1,020.00, or require the Tenant to pay the subsidized rent requested by the Landlord. As the Landlord is only seeking subsidized rent of \$785.00 for May and June of 2014, I find that the Tenant must pay this amount of rent for those months.

On the basis of the undisputed evidence, I find that \$851.50 in rent for May and June of 2014. As the Tenant was obligated to pay rent of \$1,517.00 in subsidized rent for these months, I find that she still owes \$665.50 for these months. Section 26(1) of the *Act* requires tenants to pay rent to their landlord when it is due. I therefore find that the Tenant must pay \$665.50 in unpaid rent to the Landlord for May and June. It is unclear to me why the Landlord believes that \$379.25 is due for each month, given that \$425.75 was paid each month, and I am therefore unable to award the full amount claimed by the Landlord.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$715.50, which is comprised of \$665.50 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$425.00 and \$290.50 of the Tenant's pet damage deposit in full satisfaction of the monetary claim.

The Landlord must return the remainder of the pet damage deposit to the Tenant, which is \$134.50 plus interest on the two deposits, which is \$17.90. Based on these determinations I grant the Tenant a monetary Order for \$152.40. In the event the Landlord does not comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia 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: November 19, 2014

Residential Tenancy Branch

