



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This is an application for a monetary order for \$910.00 and a request for recovery of the \$50.00 filing fee.

The applicant(s) testified that the respondent was served with notice of the hearing by registered mail that was mailed on August 29, 2014; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing.

I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

Have the applicants established monetary claim against the respondent, and if so in what amount.

Background and Evidence

This tenancy began on July 1, 2013 with a monthly rent of \$1050.00.

This tenancy ended on June 4, 2014, pursuant to a two month Notice to End Tenancy for landlord use.

The applicants are asking for an order for the landlord to pay them the equivalent of one month's rent as compensation, as required under the Residential Tenancy Act, less the equivalent of four days rent for over holding.

Further, the applicant stated that they have provided written evidence from the property manager that was acting on behalf of the owner, and in that written evidence the property manager instructs the owner that the tenants are to be paid \$910.00 to compensate them the equivalent of one month's rent less four days for over holding.

To date the owner/landlord has failed to pay that \$910.00.

The applicant is requesting that the landlord be ordered to pay double the amount above, since the landlord did not comply with the Residential Tenancy Act within the time limit.

Analysis

Section 51 of the Residential Tenancy Act states:

51 (1) A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

Therefore, since in this case the landlord did give the Notice to End Tenancy for landlord use, the landlord was required to compensate the tenant the equivalent of one month's rent.

Further, I have reviewed the evidence from the applicant, and it's clear that the property manager instructed the landlord/owner that he was required to reimburse the tenants

\$910.00, which is the equivalent of one month's rent less the equivalent of four days for over holding.

I therefore allow the tenants claim for \$910.00 and recovery of their \$50 filing fee.

I will not however order that the compensation be doubled, as the act only requires that it be doubled if the landlord fails to comply with his reasons for ending the tenancy and it appears in this case that the landlord did move into the rental unit.

Conclusion

I have allowed \$960.00 of the applicants claim and have issued an Order for the respondent to pay \$960.00 to the applicants.

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: March 24, 2015

Residential Tenancy Branch

