



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 as a result of the landlord's application for dispute resolution under the Residential Tenancy Act ("Act"). The landlord applied for authority to keep all or part of the tenant's security deposit, a monetary order for money owed or compensation for damage or loss, and for recovery of the filing fee paid for this application.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that he served the tenant with the application for dispute resolution and notice of hearing by registered mail on August 28, 2014, sent to the address provided to the landlord by the tenant. The landlord supplied the registered mail receipt showing the tracking number of the registered mail.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to retain the tenant's security deposit, further monetary compensation, and to recovery of the filing fee paid for this application?

Background and Evidence

The landlord submitted that this 16 month, fixed term tenancy began on April 1, 2014, ended on June 30, 2014, when the tenant vacated the rental unit, that monthly rent was \$1400.00, and the tenant paid a security deposit of \$700.00 at the beginning of the tenancy. The landlord submitted into evidence a copy of the written tenancy agreement.

The landlord submitted that the tenant sent him a text message, received on June 30, 2014, that she had vacated the rental unit at that time. The landlord submitted that he advertised the rental unit when he learned the tenant had vacated without notice, but was unable to find a new tenant for the month of July 2014. As a result of the deficient notice from the tenant, he suffered a loss of rent revenue of \$1400.00 for the month of July 2014, according to the landlord, which is the amount of the landlord's monetary claim.

Analysis

Under section 45(2) of the Act, a tenant must give written notice to the landlord ending a fixed term tenancy at least one clear calendar month before the next rent payment is due and that is not earlier than the end of the fixed term. In this case, the written tenancy agreement shows the fixed term ending on June 1, 2015.

In the case before me, I find the tenant was responsible to pay monthly rent to the landlord until the end of the fixed term pursuant to the signed written tenancy agreement, here, June 1, 2015, subject to the landlord's requirement that they take reasonable measures to minimize their loss, as required by section 7(2) of the Act.

I accept the landlord's undisputed evidence that the tenant provided insufficient notice that she was ending the fixed term tenancy agreement prior to the end of the fixed term and that such deficient notice caused the landlord to incur a loss of rent revenue in the amount of \$1400.00. I also find the landlord submitted sufficient evidence that he attempted to re-rent the rental unit for July 2014, but was unable to find a new tenant for that month.

I therefore find the landlord submitted sufficient evidence that due to the tenant's breach of the tenancy agreement and the Act, the landlord is entitled to recover his loss of rent revenue for July 2014, in the amount of \$1400.00.

I also grant the landlord recovery of his filing fee of \$50.00 and therefore find the landlord is entitled to a total monetary award of \$1450.00.

At the landlord's request, I direct that he retain the tenant's security deposit of \$700.00 in partial satisfaction of his monetary award of \$1450.00, and I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act in the amount of \$750.00, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are subject to recovery from the tenant.

Conclusion

The landlord's application for monetary compensation is granted.

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 30, 2015

Residential Tenancy Branch

