



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNR, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover unpaid rent and the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Has the landlord established a claim for unpaid rent? Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The tenant moved into the upper level of the home and shared the rental unit with the landlord's daughter. The upper level has three bedrooms. The tenant occupied one of the bedrooms. The tenant's share of rent was \$450.00 payable on the 5th of each month. Prior to moving in the tenant paid a deposit of \$225.00.

The tenant stated that sometime in April 2014, the landlord's daughter moved two people into the upper level. Both persons occupied the third bedroom. The tenant stated that he felt uncomfortable with the new occupants in the rental unit, who were waiting for him to move out, so that one of them could take over his bedroom. On April 23, 2014, the tenant gave notice to end the tenancy effective May 03, 2014. Shortly after the tenant moved out, one of the new occupants moved into the tenant's room.

The landlord testified that these two new tenants paid rent for the time they occupied the rental unit. However, the landlord stated that she had not approved of them and had them moved out by the middle of May. The landlord stated that since the tenant did not give adequate notice to end the tenancy, he is liable for one month's rent in the amount of \$450.00.

The tenant argued that the reason he moved out was because of the presence of the new occupants. Both parties agreed that rent was paid by the tenant up to May 05, 2014 and that the landlord held the security deposit of the tenant. The tenant agreed that he had not provided the landlord with his forwarding address in writing.

Analysis

Section 45 of the *Residential Tenancy Act*, states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement. Based on the testimony of both parties, I accept the landlord's evidence in respect of the claim. In this case the tenant did not give the landlord adequate notice to end the tenancy.

However, a new tenant moved into the tenant's rented area as soon as he moved out and the landlord's daughter collected rent from the new tenant. Therefore even though the tenant did not provide adequate notice to end the tenancy, the landlord did not suffer a loss of income and accordingly her claim for \$450.00 is dismissed. The tenant is not responsible for any loss the landlord may have suffered after the new tenants moved out.

Since the landlord has not proven her case, she must bear the cost of filing her own application.

The landlord has the address of the tenant and must return the security deposit to the tenant or file an application to retain it, pursuant to s.38 of the *Residential Tenancy Act*,

Conclusion

The landlord's application is dismissed. She must bear the cost of filing this application.

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: April 28, 2015

Residential Tenancy Branch