



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, O

Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the respondent by mailing, by registered mail to where the respondent resides on February 25, 2015. The landlord testified that a search of the Canada Post tracking service indicates the respondent picked up the package. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to A Monetary Order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on January 1, 2015. The rent was \$750 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$375 at the start of the tenancy. The tenant rented a room in the rental unit and shared kitchen and bathroom facilities. A dispute arose between the parties. On January 28, 2015 the

tenant advised the landlord she would be moving out on January 31, 2015. The tenant vacated the rental unit on January 31, 2015 although she did not return the keys until much later. The landlord was not able to find another tenant for February and lost rent in the sum of \$750 for that month.

A document signed and filed by the tenant states she orally advised the landlord she was leaving on January 28, 2015 and notice by e-mail on January 29, 2015 that she was vacating on January 31, 2015. The statement also indicates she gave the landlord her forwarding address by registered letter on February 13, 2015.

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Analysis:

Section 45(1) of the Residential Tenancy Act provides as follows:

45 (1) A tenant may end a periodic 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, and

(b) 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.

The tenant failed to give sufficient notice. The Residential Tenancy Act provides that the notice must be a clear month notice to be given on or before the end of the rental payment period to be effective at the end of the ensuing rental payment period. Thus the earliest the tenant's notice could be effective was the end of February.

Normally where there is insufficient notice such as this the landlord would be entitled to a full months rent. However, the Application for Dispute Resolution filed by the landlord is seeks an order to keep the security deposit and to recover the cost of the filing fee.

Section 72 of the Residential Tenancy Act provides as follows:

Director's orders: fees and monetary orders

72 (2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Monetary Order and Cost of Filing fee:

As a result I ordered that the landlord shall retain the security deposit in the sum of \$375. I further order that the tenant pay to the landlord the sum of \$50 for the cost of the filing fee

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: May 27, 2015

Residential Tenancy Branch

