



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlords for a monetary order and an order authorizing them to retain the security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Are the landlords entitled to a monetary order as claimed?

Background and Evidence

The facts are not in dispute. The tenancy began on May 1, 2014 and was set to run for a fixed term ending on April 30, 2015. Rent was set at \$1,350.00 per month and the tenant paid a \$675.00 security deposit. On August 7, 2014, the tenant advised via email that she would be vacating the rental unit on October 1, 2015. The landlords listed the rental unit for sale and when it did not sell by October, they placed an advertisement soliciting renters because they did not want the unit sitting empty. The landlords secured a new tenant for November 15, 2014.

Analysis

The tenant was contractually obligated to fulfill the entire term of the fixed term tenancy and was therefore obligated to pay rent for the entire term. I find that the tenant was not legally entitled to end the tenancy prior to April 30, 2015.

Section 7 of the Act provides that when a party to a tenancy agreement breaches their obligations under the Act or tenancy agreement, that party must compensate the other for any loss which results. However, this provision is subject to section 7(2) which provides that the party suffering the loss must act reasonably to minimize their losses. Instead of listing the property as available for a rental, the landlords chose to take a risk

that they would not find a purchaser. I find that the landlords must assume the consequences of that risk. Although the tenant breached her responsibility under the tenancy agreement, I find that the landlords did not act reasonably to minimize their losses and therefore I find that the landlords' claim must fail.

Residential Tenancy Policy Guideline #17 provides that where a landlord makes a claim against a security deposit and is unsuccessful, the arbitrator will order the return of the deposit regardless of whether the tenant has applied for arbitration for its return. Accordingly, I order the landlords to pay the deposit to the tenant forthwith. I grant the tenant a monetary order under section 67 for \$675.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The claim is dismissed and the landlords are ordered to return the security deposit to the tenant.

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: June 23, 2015

Residential Tenancy Branch

