



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Total Concept Developments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord company attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, despite being served with the Landlord Application for Dispute Resolution, notice of this hearing, and evidentiary material, no one for the tenant attended. The landlord's agent testified that the tenant was served with the documents by registered mail on March 4, 2015 and has provided a copy of a print-out from Canada Post to corroborate that testimony. The mail was returned to the landlord marked "Unclaimed" on April 7, 2015. The *Act* states that documents served in that manner are deemed to have been served 5 days after mailing, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony of the landlord is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for loss of rental revenue?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on December 1, 2014 and was to expire on December 1, 2015. Rent in the amount of \$1,400.00 per month is payable under the tenancy agreement, a copy of which has been provided, however, the rental unit was shared with another person (the roommate) and each paid a portion of the rent and security deposit. The tenant's responsibility for rent was \$750.00 per month, and also paid a security deposit to the landlord in the amount of \$375.00 at the commencement of the tenancy. There are no rental arrears to the end of January, 2015.

The tenant moved out of the rental unit on January 30, 2015 having given the landlord 4 days written notice. The landlord advertised the unit for rent on Kijiji, Facebook and other advertising websites as soon as the tenant's notice was received, but the rental unit has not yet been re-rented. The roommate moved out at the end of February, 2015, and the landlord's claim does not include that person.

The landlord received the tenant's forwarding address in writing in an email dated February 13, 2015.

The landlord claims one month of rent from the tenant, or \$750.00 for the tenant's portion for failure to complete the terms of the tenancy agreement and loss of rental revenue. The landlord also claims the \$50.00 filing fee and an order permitting the landlord to keep the \$375.00 security deposit.

Analysis

I have reviewed the tenancy agreement and it is clear that the parties entered into a fixed term to expire on December 1, 2015. Even if there was not a fixed term, if rent is payable on the 1st day of the month, by giving notice 4 days prior to the end of a month, the tenant's notice would not legally take effect until the end of the following month. Therefore, I find the landlord's application for one month's rent, or \$750.00 to be reasonable.

The *Act* also requires a landlord to make an application for dispute resolution claiming against the security deposit, or return it to the tenant in full within 15 days of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. The landlord testified that the tenant's forwarding address was received on February 13, 2015, and the landlord's application was filed on February 27, 2015. I find that the landlord has dealt with the security deposit within the time required under the *Act*.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

I hereby order the landlord to keep the \$375.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord for the difference in the amount of \$425.00.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$375.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$425.00.

This order is final and binding and may be enforced.

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 17, 2015

Residential Tenancy Branch

