



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was scheduled to deal with a landlord's application for authorization to retain the tenant's security deposit and recovery the filing fee paid for this application. Neither of the named tenants appeared at the hearing.

The landlord orally provided a registered mail tracking number as proof of service of the hearing packages on November 25, 2014. The landlord testified that he sent the hearing documents to the tenants' forwarding address which was also their address of residence. The landlord acknowledged that he placed both hearing packages in a single registered mail envelope and that he addressed the registered mail to the male tenant only. The registered mail was returned as unclaimed.

With respect to the address used for service, the landlord testified that he had received a letter from the female tenant on November 14, 2014 where she provided the landlord with the forwarding address. The landlord went to the address provided a short time later and spoke with the male tenant there.

An applicant is required to serve each respondent with their monetary claim. Since the landlord address the registered mail to the male tenant only, I was unsatisfied the female tenant was served with the hearing documents and I excluded her as a named party.

Section 90 of the Act provides that documents that are mailed are deemed to be received 5 days after mailing so that a party cannot avoid service. As such, I found the male tenant deemed to be served with the hearing documents and I continued to hear from the landlord without the male tenant present.

During the hearing, the landlord withdrew his request to recover the filing fee from the tenant.

Issue(s) to be Decided

Is the landlord authorized to retain the security deposit?

Background and Evidence

The landlord testified that the month-to-month tenancy commenced July 25, 2014 and the landlord collected a security deposit of \$375.00. The tenants were required to pay rent of \$750.00 on the 1st day of every month. The landlord testified that the last month for which he received rent was October 2014. The landlord had not received any notice the tenants wished to end the tenancy although he was aware that the police had been called to the property in early November 2014 to deal with a disturbance or assault involving the female tenant and another occupant of the property. The landlord testified that he attended the rental unit on November 11, 2014 on found the rental unit had been vacated. Shortly afterward, on November 14, 2014 the landlord received the letter from the female tenant whereby she provided the landlord with a forwarding address.

The landlord submitted that he suffered a loss of rent for November 2014 and December 2014 but has limited his claim to that equivalent to the security deposit.

Analysis

Under the Act, a tenant is required to pay rent in accordance with their tenancy agreement. Where a tenant seeks to end their month-to-moth tenancy, the tenant is required to give the landlord at least one full month of written notice.

In this case, I accept the undisputed evidence of the landlord that the tenants were required to pay rent in the amount of \$750.00 on the 1st day of every month pursuant to their tenancy agreement and the tenants provided no notice to end the tenancy to the landlord. I also accept that the tenants were in possession of the rental unit for some days in November 2014 and that the landlord was not paid rent for November 2014. Accordingly, I am satisfied the landlord suffered a loss of rent in an amount of at least the security deposit and I grant the landlord's request to retain the security deposit in full satisfaction of the landlord's loss of rent.

Conclusion

The landlord has been authorized to retain the tenant's security deposit in satisfaction of the landlord's loss of rent.

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 09, 2015

Residential Tenancy Branch

