



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This Hearing was scheduled to deal with the Landlords' Application for Dispute Resolution seeking a Monetary Order for unpaid rent; compensation for damage or loss under the Act, regulation or tenancy agreement; authorization to retain the security deposit; and recovery of the filing fee. Both parties appeared at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

It was determined that the Landlords served the Tenant with the Notice of Hearing documents and copies of their documentary evidence, by express post sent November 19, 2014. It was also determined that the Tenant served the Landlords with copies of her documentary evidence, also by express post.

Issue(s) to be Decided

1. Are the Landlords entitled to compensation for unpaid rent or loss of rent for the month of November, 2014?
2. May the Landlords apply any or all of the security deposit towards payment of their monetary award?

Background and Evidence

The parties entered into a month-to-month tenancy agreement on October 7, 2014 for a tenancy set to commence November 1, 2014. A copy of the tenancy agreement was provided in evidence. The Tenant paid a security deposit in the amount of \$550.00 on October 11, 2014. Monthly rent under the tenancy agreement is \$1,100.00, due on the first day of every month.

On October 27, 2014, the Tenant sent the Landlords an e-mail letting them know that she would not be moving into the rental unit. The Landlord acknowledged receiving the

e-mail, and stated that she also received the Tenant's written notice on October 30, 2014.

The Tenant stated that she could not move into the rental unit for personal reasons and that there was "no mention of me paying rent for November until I received the Landlords' application". The Tenant questioned whether the Landlords attempted to mitigate their loss. She stated that she checked on-line and only saw two ads.

The Landlord testified that the rental unit was re-rented effective March 1, 2015, but that the Landlords are only seeking loss of revenue for the month of November, 2014.

Analysis

Section 67 of the Act provides that if damage or loss results from a party not complying with the Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

The Tenant does not dispute that she signed a tenancy agreement and paid a security deposit for a tenancy to begin on November 1, 2014, and that she did not move into the rental unit.

The Tenant does not dispute that she gave notice to the Landlords, by e-mail, on October 27, 2014, and that she did not give notice in writing to the Landlords until October 30, 2014.

Section 45 of the Act provides, in part:

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.

Section 52 of the Act provides, in part, that in order to be effective a notice to end tenancy must be in writing and must be signed by the party giving the notice.

Section 53 of the Act provides that if a landlord or tenant gives notice to end a tenancy effective on a date earlier than the earliest date permitted under the Act, the effective date is deemed to be the earliest date that complies with the Act. In this case, I find that

the Tenant's notice to end the tenancy was effective November 30, 2014, which is the earliest date that complies with the Act.

I find that the Tenant did not pay rent for the month of November, 2014, and that the Landlords are entitled to unpaid rent in the amount of \$1,100.00.

Further to the provisions of Section 72 of the Act, the Landlords may apply the security deposit towards partial satisfaction of their monetary award.

The Landlords have been successful in their application, and I find that they are entitled to recover the \$50.00 filing fee from the Tenant.

I hereby provide the Landlords with a Monetary Order, calculated as follows:

Unpaid rent for November, 2014	\$1,100.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,150.00
Less security deposit set-off	<u>-\$550.00</u>
Balance due to Landlords	\$600.00

Conclusion

The Landlords are hereby provided with a Monetary Order in the amount of **\$600.00** for service upon the Tenant. This Order may be filed in the Provincial Court (Small Claims) 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: July 21, 2015

Residential Tenancy Branch

