



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR

Introduction

This is an application brought by the Landlord requesting a monetary order in the amount of \$1500.00 and recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

Both parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondent, and if so in what amount.

Background and Evidence

This tenancy began on June 1, 2010, and the tenant vacated the rental unit on April 30, 2014.

The landlord testified that the tenant failed to give the required one clear month Notice to End Tenancy and as a result he lost the rental revenue for both the months of May 2014, in June 2014.

The landlord further testified that the first time he became aware that the tenant had vacated the rental unit was when he received a letter from the tenant on May 6, 2014.

The landlord further stated that he advertised the unit for rent as soon as possible but was unable to re-rent the unit until the end of June 2014.

The landlord is therefore requesting a monetary order as follows:

May 2014 rent outstanding	\$750.00
June 2014 lost rental revenue	\$750.00
Filing fee	\$50.00
Total	\$1550.00

The tenant testified that they had a break-in at the rental unit, and that the landlord did not properly repair the damage and secure the door after the break.

The tenant further testified that, when they told the landlord they did not feel secure in the rental unit, the landlord told them, verbally, that they could vacate without giving a Notice to End Tenancy.

The tenant further stated that since the landlord had stated they did not need to give a Notice to End Tenancy, they arranged to vacate the rental unit at the end of April 2014 and sent the landlord a letter stating they were vacating. The tenant also stated that he believes the landlord would have received a letter before May 6, 2014, the date claimed by the landlord.

The tenant further stated that he believes the only reason the landlord has filed a claim is because the landlord was ordered to return double his security deposit in a previous hearing.

In response to the tenant's testimony the landlord stated that the door that was damaged in the break-in was repaired by a professional carpenter and he heard no further complaints from the tenant about the damage to the door.

The landlord further stated that he never at any time told the tenants that they could vacate without giving the required Notice to End Tenancy.

The landlord further reiterated that the letter from the tenant stating they had vacated was not received until May 6, 2014.

Analysis

It is my finding that the tenant did not give the required one clear month Notice to End Tenancy before vacating the rental unit, as the tenant testified that notice was mailed on April 29, 2014 and they vacated on April 30, 2014.

Section 45 of the Residential Tenancy Act states:

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.

Further, although the tenant claims that the landlord verbally told him he did not have to give a Notice to End Tenancy it is my finding that the tenant is not met the burden of proving that claim. The burden of proving a claim lies with the person making the claim and when it is just the that person's word against the word of the other, that burden of proof is not met.

I accept the landlord's testimony that he received the tenants notice of vacating the rental unit on May 6, 2014, and I therefore allow the landlords claim for lost rental revenue for the month of May 2014, as I find it highly unlikely that the landlord would have been able to re-rent the unit on such short notice.

I deny the landlords claim for lost rental revenue for the month of June 2014 however because, although the landlord claims to have advertised the unit for rent, the landlord has provided no evidence in support of that claim. I therefore have insufficient evidence to show that the landlord took reasonable steps to minimize the loss, as required under section 7(2) of the Act..

Section 7(2) of the Act states:

7 (2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the

regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

I will allow the landlords claim for recovery of the filing fee because the landlord has still established a fairly significant claim against the tenant.

Conclusion

Pursuant to section 60 of the Residential Tenancy Act, I have issued a monetary order for the respondent to pay \$800.00 to the applicant. The remainder of this claim is dismissed without leave to reapply.

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: September 14, 2015

Residential Tenancy Branch

