



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Landmark Realty Mission Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNSD MND FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord and the tenant participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on May 1, 2013 as a fixed term tenancy to end on April 30, 2015. The agreement indicates that after the fixed term the tenancy may continue on a month-to-month basis or for another fixed term. The tenant rented both the upper and lower portions of the house. Rent in the amount of \$2,500.00 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$1250.00. On May 1, 2013 the landlord and the tenant carried out a move-in inspection and completed the condition inspection report.

On April 9, 2015 the tenant gave the landlord written notice that they intended to vacate the rental unit on April 16, 2015. In a form dated April 16, 2015 the tenant indicated that

the reason for vacating was that they were told that the lease was ending and would not be re-signed. On April 16, 2015 the landlord and the tenant carried out a move-out inspection and completed the condition inspection report.

Landlord's Claim

During the hearing the landlord withdrew their claim for \$45.00 for lawn mowing. The tenant acknowledged responsibility for the balance of the claim of \$2625.27, with the exception of \$900.00 claimed for lost revenue for May 2015.

The landlord submitted that the tenancy would have reverted to a month-to-month tenancy after April 30, 2015, and therefore the tenant was required to give one month's notice before vacating. The landlord stated that the tenant made the decision to vacate and did not give proper notice.

The landlord stated that they attempted to re-rent the unit but were only able to re-rent the upper portion of the house halfway through May 2015. The landlord claimed the balance of rent for the upper portion of the house, in the amount of \$900.00. In support of their claim the landlord submitted copies of rental ads and indicated that they did six showings to prospective new tenants between April 22, 2015 and April 29, 2016.

Tenant's Response

The tenant stated that they would still be living in the rental unit if they could, but for the last two months of the fixed term the landlord maintained that they were selling the unit and would not renew the lease. The tenant stated that the house was overpriced and the landlord could not sell it, so they rented it out again.

Analysis

I grant the landlord **\$1725.27**, the undisputed portion of their claim.

In regard to lost revenue, I find that the landlord is entitled to the amount claimed. The tenancy agreement indicates that the tenancy would either continue on a month-to-month basis or for another fixed term. The landlord and the tenant did not agree that at the end of the fixed term the tenancy would end and the tenant must vacate. Therefore, the tenant was required to give at least one month's notice to vacate.

The tenant did not provide sufficient evidence to establish that the landlord expected the tenants to vacate. A landlord may advertise to sell a rental unit during a tenancy, and

they may continue to advertise it to sell while also advertising for new tenants. A tenancy does not automatically end when the unit is purchased by a new owner.

I am satisfied that the landlord took reasonable steps to attempt to re-rent the unit as soon as possible and mitigated the lost revenue by re-renting the upper and lower units separately. I therefore grant the landlord **\$900.00** for lost revenue for the first half of May 2015.

As the landlord's application was successful, they are also entitled to recovery of the **\$50.00** filing fee for the cost of this application.

Conclusion

The landlord is entitled to **\$2675.27**. I order that the landlord retain the security deposit of **\$1,250.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,425.27**. This order may be filed in the Small Claims Court 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: October 29, 2015

Residential Tenancy Branch

