



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on July 13, 2015 when he attended the move out inspection, in accordance with Section 89.

Based on the undisputed testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 45, 67, and 72 of the *Act*.

Background and Evidence

The landlord testified the tenancy began as a 9 month fixed term tenancy on November 1, 2013 that converted to a month to month tenancy at the end of the fixed term for a monthly rent of \$2,700.00 due on the 1st of each month with a security deposit of \$1,350.00 paid.

The landlord further testified the tenant called her on or about June 15, 2015 stating he would be moving out at the end of June 2015. The landlord submits that she was unable to re-rent the unit until August 1, 2015.

Analysis

Section 45(1) stipulates that a tenant may end a month to month tenancy by giving the landlord notice to end the tenancy on a date is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Section 45(3) states that if the landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

A material term of a tenancy agreement is a term that is agreed by both parties is so important that the most trivial breach of that term gives the other party the right to end the tenancy, such as the payment of rent.

As there is no evidence before me that the tenant had informed the landlord of a breach of a material term of the tenancy I find the earliest the tenant could have ended the tenancy, if he had provided her with a **written notice**, was July 31, 2015. As such, I find the tenant is responsible for the payment of rent for the month of July 2015.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,750.00** comprised of \$2,700.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$1,350.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,400.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: December 22, 2015

Residential Tenancy Branch

