



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNSD, O

Introduction

This is an application brought by the Landlord(s) requesting a Monetary Order in the amount of \$3000.00 and requesting recovery of the \$50.00 filing fee. The applicant is also requesting an Order to keep the full security deposit of \$600.00 towards the claim.

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.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicants have established monetary claim against the respondents, and if so in what amount.

Background and Evidence

The parties agree that this tenancy began on June 15, 2015 with a monthly rent of \$1200.00, due on the first of each month.

The parties also agree that the tenancy agreement was for a fixed term, with an expiry date of June 30, 2016, and that a \$600.00 pet deposit was paid on June 15, 2015.

The landlord testified that the tenants vacated the rental unit without giving any notice and when he heard from the other occupants of the rental property that the tenants vacated, he went to the rental unit found it empty, and secured the unit by changing the locks.

The landlord further testified that although he attempted to re-rent the unit he was unable to do so until November 1, 2015, and therefore he lost the full rental revenue for the months of September 2015 and October 2015.

The landlord further testified that before changing the locks to the the rental unit he called his lawyer to find out what his legal rights and obligations were, and therefore he had to pay for one half hour session of legal advice.

The landlord further testified that he had advertised the rental unit in the local papers and therefore he had advertising costs, plus he had his time spent arranging advertising and showing the rental unit, which totaled 7 1/4 hours.

The landlord is therefore requesting a Monetary Order as follows:

One lock replaced	\$76.00
September 2015 lost rental revenue	\$1200.00
October 2015 lost rental revenue	\$1200.00
One half hour of legal advice	\$140.00
Advertising costs	\$129.00
Landlords time to advertise and show the rental unit 7 1/4 hours X \$35.00	\$255.00
Filing fee	\$50.00
Total	\$3050.00
=====	=====

The tenants testified that, although they did not give the required Notice to End Tenancy, they had notified the landlord's agent, through whom they had arranged the tenancy, that they would be leaving the rental unit on September 1, 2015. Therefore the landlord was informed that they were vacating the rental unit and there was no need for legal advice.

The tenants further testified that when they inform the landlord's agent that they would be vacating the rental unit he informed them that he would re-rent the unit for them and he did not believe it would be difficult to re-rent. Had he not inform them that he was going to re-rent it they would have taken steps to re-rent it themselves, and therefore mitigate any loss.

The tenants further stated that they were allowed to have a pet in the rental unit and there is no clause in the tenancy agreement that disallows pets; however when the landlords were re-renting the unit they were no longer allowing pets in the rental unit, therefore making it more difficult to rent. They therefore do not believe they should be held liable for any more than the rent for the month of September 2015.

The tenants further argued that, as stated above, they would have attempted to re-rent the unit themselves had the landlord's agent not inform them he was going to do so, and therefore they do not believe they should have to pay for advertising costs or for the landlords time to show the rental unit.

In response to the tenants testimony the landlord stated that the person who originally arranged the rental with the tenants was just a friend that was acting on his behalf and was never a paid agent and therefore the tenant should have been dealing with him; however when questioned as to whether or not he ever inform the tenants that the person was no longer acting as his agent he stated that he had never done so.

The landlord further argued that although they had allowed the tenants to have a dog, it was only to be for a short time and then they were going to get rid of it, had they agreed to have pets than they would have collected a pet deposit.

Analysis

It is my finding that the landlord was not clear with the tenants and never informed the tenants that the person who acted as his agent at the beginning of the tenancy was no longer acting on his behalf, and even though the person was not paid agent, if the person acts as an agent of the landlord it is reasonable for the tenants to expect that person is the person they are to deal with. Therefore it is my finding that, although the notice was not given within the required timeframe, it was reasonable that the tenants gave notice to the agent.

That being said, the notice given to the agent was not given until well into August of 2015 and therefore I find it very unlikely that the unit could have been re-rented for the month of September 2015, and it is therefore my finding that the tenants are liable for the loss rental revenue for September 2015 in the amount of \$1200.00.

I also allow the landlord's \$255.00 claim for his time spent advertising and showing the rental unit, because this is time he would not have had to spend had the tenants not breached the tenancy agreement.

The landlord has failed to provide any evidence of cost of replacing the lock, costs of legal advice, or costs of advertising the rental unit, and therefore I deny that portion of the claim.

I also deny the landlords claim for lost rental revenue for the month of October 2015 because the landlord has admitted that, when attempting to re-rent the unit they were not allowing pets, even though the original tenants were allowed to have a pet and there was no clause in the original tenancy agreement disallowing pets. I find it likely that

altering the tenancy agreement to disallow pets may well have made it more difficult to re-rent the unit, causing the loss of the October 2015 rent.

I will allow the landlords claim for the filing fee as a landlord does still have a substantial claim against the tenants.

Therefore the total amount of the claim that I have allowed is as follows:

September 2015 lost rental revenue	\$1200.00
Landlords time to show the rental unit	\$255.00
Filing fee	\$50.00
Total	\$1505.00

Conclusion

I have allowed \$1505.00 of the landlords claim and I therefore Order that the landlord may retain the full security deposit of \$600.00 and pursuant to section 67 of the Residential Tenancy Act I have issued a Monetary Order in the amount of \$905.00.

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: April 04, 2016

Residential Tenancy Branch

