



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ANSON REALTY LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MNSD, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income, move out fees, administration fees, credit checking fees and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

Service of the hearing document, by the landlord to the tenant, was done in accordance with section 88 of the *Residential Tenancy Act*. The landlord mailed the package by registered mail on January 06, 2016 and filed a copy of the tracking history. The tenant received the package on January 11, 2016 and signed in acknowledgement. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

During the hearing the landlord withdrew a portion of her monetary claim. Accordingly this hearing only dealt with the landlord's claim to retain the deposit in partial satisfaction of her claim for loss of income and for the recovery of the filing fee

Issues to be decided

Is the landlord entitled to loss of income, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on July 01, 2015 for a fixed term of one year. The monthly rent was \$1,600.00 payable on the first day of each month. Prior to moving in the tenant paid a security deposit of \$800.00. On October 28, 2015, the tenant gave notice to put an early end to the fixed term, effective November 30, 2015. On December 06, 2015, the tenant requested an extension up to December 31, 2015. The landlord made efforts to find a tenant for January and was successful in finding a tenant for January 15, 2016.

Analysis

Section 45(2) of the *Residential Tenancy Act* states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, is not earlier than the date specified in the tenancy agreement as the end of the tenancy and is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

Based on the documentary evidence filed by the landlord and in the absence of any contradictory evidence, I find that the tenant was non-compliant with the tenancy agreement when he ended the tenancy prior to the end date of the fixed term.

Section 7 of the Act provides that a landlord 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. In this case I find that the landlord actively looked for a tenant and found one for January 15, 2016, but suffered a loss of income in the amount of \$800.00. I find that the landlord entitled to recover this loss. Since the landlord has proven her claim she is entitled to the recovery of the filing fee of \$50.00.

Overall the landlord has established a claim of \$850.00. . I order that the landlord retain the security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$50.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord may retain the security deposit of \$800.00. I grant the landlord a monetary order for \$50.00.

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: August 12, 2016

Residential Tenancy Branch