



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MEICOR PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNDC, MNSD, FF, MNR

Introduction

This hearing dealt with cross applications. The landlord is seeking a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant has filed an application seeking the return of the security deposit and pet deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

Is either party entitled to a monetary order as claimed?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on November 30, 2015 and was to be for a fixed term of one year but ended on January 31, 2016. The tenants were obligated to pay \$825.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$412.50 security deposit and \$412.50 pet deposit. The landlord stated that written move in and move out condition inspection reports were conducted however the tenant refused to participate in the move out inspection. The landlord stated that on January 22, 2016 the tenant advised that she would be moving out by the end of January. The landlord stated that she advised the tenant that she would still be responsible for February's rent and that she was giving improper notice to vacate.

The landlord stated that the tenant advised that she would pay the liquidated damages as per the tenancy agreement and that she was no longer responsible for any other monies. The landlord stated that she attempted to assist the tenant by arranging to show the unit to potential tenants but was refused access on two occasions. The

landlord stated that she advised the tenant that if she allowed her to show the suite she might rent it and that the tenant would not be responsible for February's rent, however the tenant did not cooperate. The landlord stated that she is seeking \$825.00 for the loss of revenue for February due to getting only 9 days' notice to end the tenancy and the recovery of the \$100.00 filing fee.

The tenant gave the following testimony. The tenant stated she paid the \$300.00 liquidated damages as per the tenancy agreement and that relieves her of any other responsibilities. The tenant is seeking the return of both deposits and the \$100.00 filing fee for this application.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of each party's claim and my findings around each are set out below.

Tenant's notice

45 (2) A tenant may end a fixed term 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,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) 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.

After hearing the tenants' testimony it was clear to me that the tenant either; did not understand her responsibilities under the Act or chose not to act in accordance with them, either way I find that the tenant was in Breach of Section 45 of the Act as outlined above. A liquidated damages clause does not relieve a party from providing proper notice to end a tenancy, whether it's a fixed term or not. In addition, the liquidated damages clause the tenant referred to in the tenancy agreement also says that the landlord is not precluded from claiming future rental loss. Based on all of the above I find that the landlord is entitled to \$825.00 for loss of revenue for February 2016 due to the short and improper notice from the tenant.

The landlord is also entitled to the recovery of \$100.00 filing fee.

The tenant has not been successful in her application.

Conclusion

The landlord has established a claim for \$925.00. I order that the landlord retain the \$412.50 security deposit and \$412.50 pet deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$100.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenants' application is dismissed in its entirety.

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 22, 2016

Residential Tenancy Branch