



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This hearing convened as a result of the Tenant's Application for Dispute Resolution wherein the Tenant requested return of the security deposit and pet damage deposit paid as well as recovery of the August 2016 rent paid.

The hearing was conducted by teleconference on March 23, 2017 and May 1, 2017. Both parties called into the hearing on March 23, 2017, which was adjourned by my Interim Decision of March 23, 2017 to today's date.

On April 7, 2017 the Landlord filed for dispute resolution seeking a Monetary Order for unpaid rent, authority to retain the Tenant's security and pet damage deposit and recovery of the filing fee. The Landlord's Application was set to be heard at the same time as the Tenant's.

The Tenant failed to call into the hearing on May 1, 2017. The Tenant bears the burden of proving her claim on a balance of probabilities; as she failed to call into the hearing on May 1, 2017, I dismiss her Application for Dispute Resolution.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a Monetary Order for unpaid rent?
2. Is the Landlord entitled to retain the Tenant's deposits?
3. Should the Landlord recover the filing fee?

Background and Evidence

The Landlord testified that this tenancy began February 1, 2016. Monthly rent as payable in the amount of \$750.00 and the Tenant paid a security deposit of \$375.00 and a pet damage deposit of \$375.00.

The Landlord stated that the Tenant vacated the rental unit sometime in August of 2016; however, they were not aware of this until September 9, 2016. He confirmed that although they tried to re-rent the unit as soon as possible, they were not able to find a tenant until October 1, 2016. They therefore sought monetary compensation for the loss of rent for October 2016.

Analysis

I accept the Landlords' undisputed testimony that they discovered the Tenant had vacated the rental unit on September 9, 2016.

A tenant may end a tenancy provided that the notice complies with sections 45 and 52 of the *Act*, which provide as follows:

Tenant's notice

- 45** (1) A tenant may end a periodic 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, and
 - (b) 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.
- (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.
- (3) If a 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.
- (4) A notice to end a tenancy given under this section must comply with section 52 *[form and content of notice to end tenancy]*.

Form and content of notice to end tenancy

- 52** In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The Landlord confirmed that the Tenant did not provide written notice to end the tenancy; accordingly, she did not end the tenancy in accordance with the *Act*. I find that this caused the Landlords to suffer a loss of rent for the month of October 2016 and I therefore award them the **\$750.00** claimed.

As the Landlords have been substantially successful I award them recovery of the **\$100.00** filing fee for a total award of **\$850.00**.

Pursuant to section 38 of the *Act*, I authorize the Landlords to retain the Tenant's security and pet damage deposit in the amount of \$750.00 and I grant the Landlords a Monetary Order for the balance due in the amount of **\$100.00**.

Conclusion

The Tenant failed to attend the hearing and her application is dismissed.

The Tenant failed to end her tenancy in accordance with the *Act*, causing the Landlords to suffer a loss of rent for September 2016. The Landlords are entitled to recovery of this amount as well as the filing fee and may retain the Tenant's deposits towards the amount owing. The Landlords are granted a Monetary Order for the balance due in the amount of **\$100.00** and must serve the Order on the Tenants. If necessary, the Order may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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: May 1, 2017

Residential Tenancy Branch