



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties.

The Landlord filed for an order to keep the security deposit against a half a month of rent owed and to recover the filing fee for the Application.

The Tenant filed for a monetary order for return of double the security deposit under section 38 of the Act, and to recover the filing fee for the Application.

The Tenant did not appear for their Application.

Only the Agent for the Landlords appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified they served the Tenant with their Notice of Hearing documents by registered mail, sent on October 28, 2016, by registered mail. Under the Act, the Tenant is deemed to have been served five days after mailing. Furthermore, the Tenant made their own Application which was scheduled to be heard at the same time and date as the Landlords' Application. Therefore, I am satisfied that the Tenant was served with the Landlords' Application and Notice of Hearing documents, and that the Tenant was aware there was a hearing at the time and date scheduled. As the Tenant did not appear at the hearing, I dismiss their claim without leave to reapply.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue(s) to be Decided

Is the Landlord entitled to the relief sought?

Background and Evidence

This tenancy began on February 1, 2014, with the parties entering into a written, one year fixed term agreement, which then converted month to month tenancy agreement after the first year. The Tenant paid a security deposit of \$412.50 on January 20, 2014, and the monthly rent was \$825.00, payable on the first day of each month.

On or about September 3, 2016, the Tenant sent the Agent for the Landlords a text message that they were ending the tenancy at the end of September, but they might leave before the end of the month.

According to the testimony of the Agent for the Landlord, she informed the Tenant that this was short notice to end a tenancy but they would try and get the unit rented as soon as possible.

The rental unit was re-rented for October 15, 2016. In evidence the Landlord has submitted a copy of the new tenancy agreement with the name of the new tenant redacted for privacy protection.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find the following.

I find the Landlords have established a claim for rent for the first half of the month of October, in the amount of **\$412.50**.

Under section 45 of the Act and section 32 of the tenancy agreement used by the parties, the Tenant was required to give the Landlord a written Notice to End Tenancy of at least one month, calculated from the day before rent is due. Therefore, if the Tenant wanted to end the tenancy on September 30, 2016, the latest the Tenant could have given the Landlord a notice to end tenancy was August 31, 2016, the day before the rent was due. This would have given the Landlord the correct Notice to End Tenancy under the Act and tenancy agreement. I also note that a text message does not usually satisfy the requirements of the written notice required.

Therefore, I find the Landlords have established a claim of **\$512.50** against the Tenant comprised of \$412.50 in rent for half of October 2016, and the \$100.00 filing fee for the Application.

I dismiss the Tenant's claim for return of the security deposit without leave to reapply.

Having found the Landlord has established a claim of \$512.50, I order the Landlords may retain the security deposit of \$412.50 in partial satisfaction of the claim, and I grant the Landlord a monetary order for the balance due of **\$100.00**. This order must be served on the Tenant and may be filed and enforced through the Provincial Court.

Conclusion

The Tenant's claim is dismissed without leave. The Landlords have established a monetary claim.

I order the Landlord may retain the security deposit in partial satisfaction of the claim, and grant the Landlord a monetary order for the balance due of \$100.00.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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 01, 2017

Residential Tenancy Branch