



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, requesting a monetary order, and requesting an order to retain the full security deposit.

Some documentary evidence and written arguments have been submitted 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

At the beginning of the conference call the applicant inform me that the tenants have vacated the rental unit and therefore an Order of Possession is no longer required.

Therefore the issue I dealt with today is whether the applicants have established monetary claim against the respondents, and if so in what amount.

Background and Evidence

The parties agree that this tenancy started on October 1, 2016 and that the tenants vacated the rental unit on March 31, 2017.

The parties also agree that the monthly rent was \$1550.00 and that the tenants had paid a security deposit of \$775.00.

The landlord testified that this was a fixed term tenancy with an end of tenancy date of May 31, 2017 however on March 3, 2017 the tenants gave him official notice that they would be vacating at the end of March 2017.

The landlord further testified that he informed the tenants that this was not proper notice and that it would put them in an extremely difficult position, to try and re-rent the unit on such short notice.

The landlord further testified that, he therefore inform the tenants that they would have to forfeit their security deposit to cover his time and costs to re-rent the unit; however once they were informed of this the tenants refused to pay the full March 2017 rent, offering only \$500.00, which he refused to accept.

The landlord therefore testified that the full March 2017 rent is still outstanding, and as a result of the short notice, although he was able to re-rent the unit, he also had to reduce the rent by \$100.00 per month and therefore he lost \$200.00 of rental income.

The landlord further testified that due to the short notice and the difficulty of renting the unit for such a short period he had to spend an excessive amount of time attempting to re-rent the unit.

The landlord is therefore requesting an order for the outstanding March 2017 rent of \$1550.00, and is requesting an order to retain the full security deposit of \$775.00 to cover his lost rental revenue and is extra time required to re-rent the unit.

The tenants testified that they did sign a one-year lease with an end of tenancy date of May 31, 2017 however the landlord has also agreed that they could give 30 days' notice, and vacate the rental unit earlier than the end of the lease.

They were one day late giving the notice, as they notified the landlord on March 1, 2017 that they would be vacating the rental unit at the end of March 2017, and they followed that up with the official notice.

The tenants therefore believe that, since their notice was only one day late, they should not be required to forfeit their security deposit.

In response to the tenant's testimony the landlord testified that the agreement was not 30 days notice, the agreement was one clear months notice and therefore to end the tenancy at the end of March 2017 the tenants would have been required to give notice before the end of February 2017.

The landlord further testified that he did not receive official notice from the tenants until March 3, 2017, which made it very difficult for him to try and re-rent the unit on such short notice, and that is why he had to accept lower rent.

Analysis

It is my decision that, since the tenants were in the rental unit until the end of March 2017, they are liable for the full rent for that month.

It is my finding that the tenants did not give the landlord the required notice to end the tenancy early, and in fact, although they may have notified the landlord on March 1,

2017 that they were going to end the tenancy at the end of the month, their official notice was not received by the landlord until March 3, 2017. That being said, both these notices were not within the required one clear month time limit.

It is my decision therefore that I will allow the landlord to keep the full security deposit to cover the extra time required for him to re-rent the unit on short notice, and to cover the loss rental revenue that resulted from having to lower the rent to be able to re-rent the unit.

I also allow the landlords request for recovery of the \$100.00 filing fee.

Therefore the total amount that I have allowed is \$2425.00.

Conclusion

Pursuant to sections 67 and 72 of the Residential Tenancy Act, I have allowed a total claim of \$2425.00, and I therefore order, pursuant to section 38 of the Residential Tenancy Act, that the landlord may retain the full security deposit of \$775.00, and I have issued a monetary order for the respondents to pay \$1650.00 to the applicants

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 08, 2017

Residential Tenancy Branch