



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDCL-S

Introduction

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss and to retain the security deposit.

Legal Counsel for the Landlords stated that the Application for Dispute Resolution, the Notice of Hearing, and 13 pages of evidence the Landlords submitted with the Application were sent to the Tenants, via registered mail, on October 19, 2018. The Tenants acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

On January 07, 2019 the Tenants submitted 10 pages of evidence to the Residential Tenancy Branch. The male Tenant stated that this evidence was personally served to the Landlord on January 20, 2019. The Landlords acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

Preliminary Matter

The Landlords and the Tenants agree that the Landlords were ordered to return the security deposit at a previous dispute resolution proceeding. I therefore am unable to

consider the Landlords' application to retain the security deposit, as that matter has already been considered.

Issue(s) to be Decided

Are the Landlords entitled to compensation for lost revenue?

Background and Evidence

The Landlords and the Tenants agree that:

- the parties entered into a fixed term tenancy agreement;
- the tenancy was to begin on December 01, 2017;
- the fixed term of the tenancy was to end on December 01, 2018;
- the Tenants agreed to pay monthly rent of \$2,000.00;
- on, or about, November 11, 2017 the Tenants informed the Landlord they did not wish to move into the rental unit because there was a problem with insects and mice in the unit;
- the Tenants returned the keys to the rental unit on, or about, November 12, 2017;
- the Agent for the Landlord sent the Tenants a mutual agreement to end the tenancy, via email;
- the Tenants signed that mutual agreement and returned it to the Landlord;
- the mutual agreement has been signed by both parties; and
- the mutual agreement ended the tenancy, effective November 17, 2017.

The Landlord is seeking compensation for lost revenue for December of 2017 and January of 2018.

Analysis

Section 44 of the *Residential Tenancy Act (Act)* identifies various ways to end a tenancy. Section 44(1)(c) of the *Act* stipulates a tenancy ends if the landlord and the tenant agree in writing to end the tenancy.

On the basis of the undisputed evidence I find that the parties signed a mutual agreement to end this tenancy, effective November 17, 2017. I therefore find that this tenancy ended in accordance with section 44(1)(c) of the *Act*.

Section 67 of the *Act* authorizes me to order a tenant to pay compensation to a landlord if the landlord suffers a loss as a result of the tenant not complying with the *Act*, the

Regulations, or the tenancy agreement. For example, if a tenant unilaterally ends a fixed term tenancy prematurely, a landlord is often entitled to compensation for lost revenue.

In these circumstances, however, the parties mutually agreed to end the tenancy pursuant to section 44(1)(c) of the *Act*. I therefore find that the Tenants did not breach the *Act* or the tenancy agreement when they did not proceed with the tenancy. As the Tenants did not reach the *Act* or the tenancy agreement, I find that they are not obligated to compensate the Landlords for lost revenue they experienced as a result of the tenancy ending.

Conclusion

The Application for Dispute Resolution is dismissed, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 07, 2019

Residential Tenancy Branch