



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Decision Codes: FFL, MNDL-S

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$850 for the failure to give sufficient notice to end the tenancy
- b. An order to keep the security deposit.
- c. An order to recover the cost of the filing fee

The tenant(s) failed to appear at the scheduled start of the hearing which was 1:30 a.m. on September 10, 2019. The landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenant(s) failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached. All of the evidence was carefully considered.

The Residential Tenancy Act permits a landlord to serve a Landlord's Application for Dispute Resolution by mailing, by registered mail to the forwarding address provided by the Tenant. The Act further provides that it is deemed received 5 days later. The Policy Guidelines further provide that a party cannot avoid service by refusing to claim their registered mail. I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was sufficiently served on the Tenant by mailing, by registered mail to the forwarding address provided by the Tenant on June 4, 2019. I determined that it was sufficiently served even though the Tenant refused to claim the package and it was returned to the landlord. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

On May 7, 2019 the Tenant agreed to rent the rental unit from the landlord and provided a security deposit of \$850. The rent was set at \$1750 per month payable in advance on the first day of each month. The deposit was supposed to be \$875 and the landlord agreed the Tenant could pay the additional \$25 at the time she moved in. There was some additional renovation work which the Tenant wanted done and the parties agreed that the move in date a week from then.

On May 13, 2019 the tenant contacted to the landlord to see whether she could move in. The parties made arrangements for the Tenant to attend the premises on May 14, 2019 in order to take possession of the rental unit pay the rent and receive the keys. In the evening of May 14, 2019 the parties met at the rental unit and the Tenant advised the landlord that she no longer wished to move in and demanded the return of her security deposit.

The parties met the next day formalize the termination of the tenancy agreement but the tenant refused to sign a mutual agreement to end the tenancy. The tenant failed to provide written notice she was ending the tenancy. On May 23, 2019 the tenant gave the landlord a notice demanding the return of the security deposit. However, that document was not signed by the Tenant. The tenant failed to pay the rent for the last half of May 2019 and the sum of \$875 is outstanding.

The landlord reasonably attempted to mitigate his loss. He was able to find a new tenant who moved in on June 1, 2019.

Landlord's Application - Analysis

I determined the parties entered into a residential tenancy agreement that provided that the tenant would rent the rental unit for \$1750 per month. The tenant breached that tenancy agreement when she decided she did not wish to move in and failed to give the landlord the required one month notice. The landlord sufficiently attempted to mitigate his loss but was not able to rent the rental unit for the last half of May 2019. I determined the landlord has established a claim against the tenant for the amount

claimed in the Application for Dispute Resolution in the sum of \$850 for loss of rent for the last half of May 2019.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$850 plus the \$100 filing fee for a total of \$950.

Security Deposit

I determined the security deposit held by the landlord amounts to \$850. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$100.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on the parties.

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 10, 2019

Residential Tenancy Branch