



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD and MNDC

Introduction

This hearing was in response to an Application for Dispute Resolution, in which the Tenants applied for the return of double their security deposit and a monetary Order for money owed or compensation for damages or loss.

The male Tenant stated that he personally served the Agent for the Landlord who served him with the Notice to End Tenancy with copies of the Application for Dispute Resolution and Notice of Hearing on February 27, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issue to be decided is whether the Tenants are entitled to the return of double the security deposit paid in relation to this tenancy, to compensation for property they left in the rental unit and to a rent reduction because they lived in an illegal rental unit.

Background and Evidence

The male Tenant stated that this tenancy began on December 01, 2008; that they were required to pay monthly rent of \$500.00; and that they paid a security deposit of \$250.00 on, or about, February 28, 2009.

The Tenants submitted a 30 Day Notice to End Tenancy, which the male Tenant stated was personally served to him on February 11, 2009. The Notice stated that the tenancy was ending on March 12, 2009 unless the Tenants disputed the Notice. The male Tenant stated that they did not dispute the notice and that they vacated the rental unit on February 28, 2009.

The Tenants are seeking the return of their security deposit, as they did not authorize the Landlord to retain the security deposit; the Landlord did not return the security deposit; and the Landlord did not file an Application for Dispute Resolution claiming against the security deposit. The male Tenant stated that they still have not provided the Landlord with a forwarding address, as they do not have an address.

The Tenants are claiming compensation, in the amount of \$400.00, because they had to vacate the rental unit and were unable to move all of their belongings. The male Tenant stated that they were unable to move all of their belongings because they could not find a new place to live, and they had nowhere to store their belongings.

The Tenants are seeking a return of the rent they paid because they lived for three months in an illegal suite. The Tenants were unable to explain how living in a rental unit that does not qualify as a legal suite impacted their tenancy.

Analysis and Conclusion

In the absence of evidence to the contrary, I find that this tenancy began on December 01, 2008; that the Tenants were required to pay monthly rent of \$500.00; and that they paid a security deposit of \$250.00 on, or about, February 28, 2009.

In the absence of evidence to the contrary, I find that the Tenants were personally served with a 30 Day Notice to End Tenancy on February 11, 2009, which had a stated effective date of March 12, 2009. Section 47(2) of the *Act* stipulates that a One Month Notice to End Tenancy for Cause must end the tenancy effective on a date that is not earlier than one month after the date the notice is received and the day before the day in the month that rent is payable under the tenancy agreement. As the Tenant is deemed to have received this Notice on February 11, 2009, and rent is due on the first of each month, the earliest effective date that the Notice is March 31, 2009.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was March 31, 2009.

As the Tenants did not dispute the Notice to End Tenancy, I find that they were required to vacate the rental unit on, or before, March 31, 2009. In the absence of evidence to the contrary, I find that the Tenants vacated the rental unit on February 28, 2009, which is earlier than they were required to vacate the rental unit, either by law or by the terms of the Notice to End Tenancy.

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit plus interest or make an application for dispute resolution claiming against the deposits.



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In the circumstances before me, I find that the Tenants have not yet provided the Landlord with a forwarding address in writing. The Landlord does not have to comply with section 38(1) of the Act until the Tenants provide the Landlord with a forwarding address. On this basis, I dismiss the Tenants' application for the return of their security deposit, with leave to reapply if the Landlord does not comply with section 38(1) of the Act after the Tenants provide the Landlord with a forwarding address.

The Tenants submitted no evidence to establish that the Landlord acted unlawfully when the Landlord served the Tenants with a Notice to End Tenancy, with the exception of the effective date of the Notice, which self-corrected by virtue of section 53 of the Act. I find that the Notice to End Tenancy advised the Tenants that they had thirty days to vacate the rental unit, which is ample time to locate a new residence or to make arrangements to find storage facilities. The evidence shows that the Tenants vacated the rental unit prior to the stated effective date of the Notice and prior to the true effective date of the Notice. On this basis, I dismiss the Tenants' application for compensation for loss of personal property, as I cannot conclude that the Landlord is directly responsible for their inability to locate new accommodations.

The Act authorizes me to compensate individuals who experience damage or loss because another party has not complied with the Act. In these circumstances the Tenants have not established that they suffered a damage or loss as a result of living in this rental unit. On this basis, I dismiss the Tenants' application for compensation for living in a rental unit that is deemed to be an "illegal suite".

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 12, 2009.

Dispute Resolution Officer