Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNSD, MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants/applicants for a monetary order.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form.

Issue(s) to be Decided

Are the tenants/applicants entitled to a monetary order?

Background and Evidence

The tenant (MS) entered into a written tenancy agreement which began on November, 1, 2006. Rent in the amount of $660.00.00 was payable on the first of each month. A security deposit of $330.00 was paid by the tenant. Tenancy ended on January 30, 2012.

The applicant (SS) testified that even though she is not on the tenancy agreement she is the wife of the tenant and she has legal rights. The applicant (SS) states she was evicted from her home and the landlord would not allow her to rent the unit.

The applicant (SS) testified that the landlord retained $30.00 from the security deposit to clean the unit and she did not consent to this deduction.

The applicant (SS) writes that "We moved out the place on January 30, 2012 between 11:30am and 2:00pm. The door lock was already changed when I went back to clean the room the same afternoon". [Reproduced as written]

The landlord's agent testified that the tenant (MS) provided them written notice to end the tenancy on December 25, 2011. Filed in evidence is a copy of the notice to end tenancy.

The landlord's agent testified the tenant (MS) attend the move-out inspection on January 30, 2012 and provided written consent to retain $30.00 for cleaning. Filed in evidence is a copy of the move-out inspection.

The landlord's agent testified on February 20, 2012, the tenant (MS) attended the office and picked up the balance of the security deposit and at that time the tenant (MS) signed a release in full and final settlement.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

On December 25, 2012, the tenant (MS) provided written notice to end tenancy on the last day of January 2012.

Policy Guideline 13 Co-tenants states - If the tenant who moves out gives proper notice to end the tenancy the tenancy agreement will end on the effective date of that notice, and **all tenants** must move out, even where the notice has not been signed by all tenants.

Even if I accept the applicant (SS) was a tenant, once the tenant (MS) provided the landlord with notice to end tenancy, under policy guideline 13, she was required to move out of the rental unit on the effective date of the notice as the tenancy ended in accordance with the Act. The landlord was under no obligation to create a new tenancy with her. Therefore, I dismiss the tenant's/applicant's claim for compensation.

The evidence of the applicant (SS) was she came back later on January 30, 2012, to clean the rental unit and the locks had been changed. However, the move-out inspection had already been competed with the tenant (MS). Once the tenant (MS) signed the move-out inspection the landlord had legal possession of the rental unit and was entitled to change the locks. The tenant and the applicant had no legal right to enter the rental unit after that point.

On January 30, 2012, the tenant (MS) provided written consent for the landlord to retain $30.00 from the security deposit. On February 20, 2012, the tenant (MS) picked up the balance of the security deposit and signed a release in full and final settlement. I find the tenant's/applicant's claim for the return of the $30.00 plus interest has no merit and must be dismissed.

Conclusion

The tenant's/applicant's application is dismissed.

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 11, 2012.

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Residential Tenancy Branch