



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD and FF

Introduction

By application of December 17, 2012, the landlord sought a monetary award for loss of rent, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Background and Evidence

The parties had agreed on or about September 29, 2012 that the tenant would move in to the landlord's rental unit on September 1, 2012. Her share of the rent was set at \$1000 per month and the tenant paid a security deposit of \$1,000 which creates a binding rental agreement, although the parties had not yet signed the written agreement.

On August 14, 2012, the tenant advised the landlord that she would not be proceeding with the tenancy.

The tenant made application for return of the deposit, but in her decision of December 6, 2012, the Arbitrator found that the application was premature as the tenant had not provided the landlord with her forwarding address. With the address now in hand, the landlord brought the present application.

During the hearing, the landlord gave evidence that she had been able to secure new tenants for the rental unit beginning on September 3, 2012, and experienced a two day loss of rent.

Analysis

Section 7 of the *Act* states that if either party suffers damage or loss due to the non-compliance of the other with the legislation or rental agreement, then the non-compliant party must compensate the other for that loss.

In the present matter, I find that the tenant breached the rental agreement by not proceeding with the tenancy and that she breached the legislation by not providing the full month's notice as required under section 45 of the *Act*.

Therefore, I find that the tenant is responsible for the consequential loss suffered by the landlord, which fortunately amounted to only two days rent which I calculate as $(\$1,000/30 = \$33.33 \text{ per day} \times 2 \text{ days} = \$66.66)$.

In addition, I find that the landlord is entitled to recover the \$50 filing fee for this proceeding from the tenant, bringing the total to \$116.66. As the landlord is holding a \$1,000 deposit, I find she must return the balance of \$883.34 to the tenant.

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$883.34 for service on the landlord.

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: March 11, 2013

Residential Tenancy Branch

