



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

TENANT: MNSD, FF
LANDLORD: MNR, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking a monetary order for compensation for unpaid rent and to recover the filing fee for this proceeding.

The Tenant filed for the return of double the security deposit and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlords to the Tenant was done by registered mail on May 16, 2013, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlords were done by registered mail on April 22, 2013, in accordance with section 89 of the Act.

The Landlords and Tenant both confirmed that they received the other's hearing packages.

Issues to be Decided

Landlord:

1. Is there unpaid rent and if so how much?
2. Is the Landlord entitled to unpaid rent and if so how much?

Tenant:

1. Is the Tenant entitled to recover double the security deposit?

Background and Evidence

This tenancy started on July 1, 2012 as a month to month verbal tenancy. Rent was \$1,140.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$570.00 in advance of the tenancy. The Landlord said he returned the Tenant's security deposit of \$570.00 on April 24, 2013.

The Tenant said he gave the Landlord written notice on March 27, 2013 that they were moved out of the rental unit on March 31, 2013. The Tenant also said he provided his forwarding address in the note given to the Landlord on March 27, 2013. The Tenant continued to say that there was unpaid rent of \$1,140.00 for the month of April, 2013.

The Tenant said he made this application due to all the noise and inconveniences that happened during the tenancy. The Tenant confirmed that he received his security deposit of \$570.00 on April 24, 2013 which was before the effective end of the tenancy which was April 30, 2013.

The Landlord said he had talked to the Tenant about giving up his security deposit \$570.00 as full compensation for the unpaid rent of \$1,140.00 for the month of April, 2013, but the Tenant declined the Landlord's offer. The Landlord continued to say when he received the Tenant's application package he returned the Tenant's security deposit and then made his application for unpaid rent and the filing fee.

Analysis

Section 38 of the Act says a tenant may apply for double the security deposit back if the Landlord does not return the security deposit within 15 days of the end of the tenancy and receiving the tenant's forwarding address in writing. In this situation the Landlord returned the Tenant's security deposit prior to the effective date that the tenancy ended on April 30, 2013; therefore the Tenant has no claim under the Act with regards to his security deposit. The Tenant's application is dismissed without leave to reapply.

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 45 of the Act says a Tenant may end a period term tenancy not earlier one month prior to the date that rent is payable or with the agreement of the Landlord.

In this situation written notice was given on March 27, 2013 so the effective end of the tenancy is April 30, 2013; therefore the Tenant is responsible for the April, 2013 rent of \$1,140.00.

The Tenant did not give the Landlords proper notice to end the tenancy and the Tenant does not have the right under the Act to withhold part or all of the rent for April, 2013; therefore I find the Tenant is responsible for the rent of \$1,140.00 for April 2013. I find for the Landlords and I order the Tenant to pay the Landlords \$1,140.00 representing the April, 2013 unpaid rent.

As the Landlord has been successful in this matter I order the Landlord to recover the \$50.00 filing fee for this proceeding from the Tenant. As the Tenant has not been successful in this matter I order the Tenant to bear the \$50.00 filing fee for his application, which he has already paid.

Conclusion

The Tenant's application is dismissed without leave to reapply.

A monetary order has been issued to the Landlords for \$1,190.00 representing the unpaid rent for April, 2013 of \$1,140.00 and the filing fee of \$50.00.

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: July 15, 2013

Residential Tenancy Branch