



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bristol Estates
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for unpaid rent, to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

The application has been amended to correct the spelling of the tenant's first name; she pointed out that the name was incorrect.

Landlord agent A.D. entered the conference call hearing at 9:08 a.m.; the hearing commenced at 9:00 a.m., a briefing was not provided as an agent had been present from the start of the hearing.

As the landlord has claimed compensation for a period of time after the tenancy ended, the application has been amended to reflect a claim for loss of rent revenue; not unpaid rent.

The landlord submitted evidence that appeared to relate to a claim for damage to the rental unit. Only matters that were set out in the details of the dispute section of the application were considered; the application did not include a request or detailed calculation of a claim for damage to the unit. On December 3, 2013 the landlord submitted a calculation for a damage claim to the Residential Tenancy Branch. The application was not amended to reflect a claim for damage to the unit.

The amount of compensation claimed on the application exceeded that equivalent to 1 month's rent. The application also indicated a claim in relation to clause 12 of the tenancy agreement.

Issue(s) to be Decided

Is the landlord entitled to compensation in the sum of \$900.00 for loss of December 2013 rent?

Is the landlord entitled to a late fee?

May the landlord retain the security deposit?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced in December 2008, a security deposit in the sum of \$450.00 and pet deposit in the sum of \$450.00 was paid. A condition inspection report was completed at the start and end of the tenancy. A copy of the tenancy agreement and inspection reports was supplied as evidence by the landlord.

Clause 12 of the tenancy agreement referenced late fees but the tenancy agreement was altered and the details of the clause were illegible.

At the end of the tenancy rent was \$940.00 per month, due on the 1st day of each month.

There was no dispute that on November 15, 2013 the tenant gave written notice that she would vacate at the end of November.

The landlord placed the unit on several popular web sites and posted ads in the community. The unit was rented effective April 1, 2014. The landlord has claimed the loss of December 2013 rent revenue as a result of the improper notice given by the tenant.

The tenant said that she gave notice in a short time-frame as the unit was causing problems to her health. On her doctor's advice she decided to quickly vacate.

Analysis

Section 45 of the Act requires a tenant to give signed, written notice ending a month-to-month tenancy at least the day before the day in the month that rent is due. Therefore, notice given on November 15, 2014, when rent was due on the 1st day of the month, would have been effective on December 31, 2013.

I find that the landlord did make adequate attempts to rent the unit for December 1, 2013 to mitigate the loss and that the landlord is entitled to compensation in the sum of \$940.00 for the loss of rent revenue.

The clause related to fees was illegible; therefore I dismiss the claim for fees. Further, I find, pursuant to section 44(f) of the Act that the tenancy ended effective November 30, 2013; therefore, late fees would not apply to the loss of rent revenue.

As the landlord's application has merit I find that the landlord is entitled to recover the \$50.00 filing fee.

I find that the landlord is entitled to retain the tenant's security and pet deposits plus interest, in the amount of \$901.14, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$48.86. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The balance of the claim is dismissed.

Conclusion

The landlord is entitled to compensation for loss of rent revenue; the balance of the claim is dismissed.

The landlord may retain the security and pet deposits.

The landlord is entitled to filing fee costs.

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 26, 2014

Residential Tenancy Branch

