



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

In the first application the landlord seeks the recovery of unpaid rent from the five tenants.

In the second application three of the five tenants, Mr. I.C., Mr. O.P. and Mr. V.D. seek to recover what they consider to be their portion of a security deposit.

Issue(s) to be Decided

Is the landlord owed rent? If so, who owes it? Are the three applicant tenants entitled to recover security deposit money?

Background and Evidence

The rental unit is a two bedroom, ground floor apartment in the landlord's home located in a popular ski area. Ms. B.D. describes the accommodation as "one bedroom and a closet." The landlord says the rental unit is 1500 square feet in size.

There is a written tenancy agreement. None of the parties produced a copy of it. It lists all five of the tenants as tenants.

The tenancy started in November 2015 for a seven month fixed term to May 31, 2016. The monthly rent was \$3850.00.

In addition the tenants were obliged to pay \$50.00 per person per month for utilities (\$250.00) and \$25.00 per month collectively for a wireless internet connection.

Thus the total cost per month for the tenants was \$4125.00.

The tenants paid a security deposit of \$1800.00.

It appears to have been the custom for each tenant to pay the landlord on an individual basis the amount of \$825.00 per month.

In April 2016 Ms. B.D. and Mr. C.L. travelled to Quebec. They didn't pay all their share of April rent. When they returned, instead of resuming residence in this rental unit, they rented a different one. They did not pay their portion of May rent.

The landlord testifies that as a result, Ms. B.D. and Mr. C.L. failed to pay her \$584.00 for April rent and \$1650.00 for May rent.

The two tenants had told the landlord they were leaving the tenancy. The landlord told them to try and rent out their spaces. She says that Mr. C.L. indicated he would try and sublet his portion of the rental unit but that did not happen.

Ms. B.D. testifies saying she is worried for the next tenants who live there because of bedbugs and inconsistent running water.

Mr. C.L. says there is mould in the rental unit and that he is allergic to the penicillin he thinks the mould contains.

Mr. V.D. testifies says the tenants were a group and each paid \$825.00 per month.

It was alleged that Mr. O.P. had not signed the tenancy agreement. The landlord said his signature is on her copy of the agreement.

Analysis

The question of the state of the premises is not a question raised by either application and so is not a fair question properly before me at this hearing. If the tenants or any of them consider that they should be entitled to compensation due to the state of the premises, they are free to apply for that relief.

I find that Mr. O.P. was one of the tenants. He has himself brought an application against the landlord as her tenant and he cannot resile from that position.

This was a fixed term tenancy agreement. Section 45(2) of the *Residential Tenancy Act* provides that a tenant may not end a fixed term tenancy before the end of the term. The agreement of the parties to rent for the entire term is the essence of a fixed term tenancy agreement.

Ms. B.D. and Mr. C.L. could not end the tenancy agreement before May 31, 2016 and the rent continued to accrue to the landlord whether or not Ms. B.D. and Mr. C.L. lived there.

Where two or more people enter into an agreement with a third person, their obligations are considered to be joint obligations unless the agreement states otherwise. It has not been shown that the tenants were other than joint tenants with the landlord.

The essence of a joint obligation is, in this case, that each tenant is responsible for all obligations to the landlord, including the payment of rent. Between themselves, joint tenants may claim indemnity from each other if one or more pay more than their share.

The question of what any joint tenant might owe the others is not a question within the jurisdiction of the *Residential Tenancy Act*, which deals with disputed between landlords and tenants and not disputes between two or more tenants.

I find that the landlord is owed \$584.00 rent from April 2016 and \$1650.00 rent from May 2016 for a total of \$2234.00, as claimed. She is also entitled to recover the \$100.00 filing fee.

I authorize the landlord to retain the \$1800.00 security deposit she holds, in reduction of the amount awarded. She will have a monetary order against the five tenants, jointly and severally, for the remainder of \$534.00.

Conclusion

The landlord's application is allowed. A monetary order against the five tenants, jointly and severally, for the remainder of \$534.00 will issue.

The three tenants' application to recover the security deposit 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: December 06, 2016

Residential Tenancy Branch