



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, FF

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that he did not serve either Respondent with the Application for Dispute Resolution, the Notice of Hearing, and the residential tenancy agreement that he submitted to the Residential Tenancy Branch, as he understood those documents would be served to the Respondents by the Residential Tenancy Branch.

The Landlord stated that she received the Application for Dispute Resolution, the Notice of Hearing, and the residential tenancy agreement in the mail; although she cannot recall the date they were received. On the basis of the testimony of the Tenant I find that these documents were received by the female Landlord and I accept them as evidence for these proceedings.

On the basis of the testimony of the Tenant I find that the male Landlord was served with the Application for Dispute Resolution, pursuant to section 89(1)(b) of the *Residential Tenancy Act (Act)*.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were not permitted to present evidence that was not relevant to my decision and, if they did so, it is not recorded in this decision.

Issue(s) to be Decided:

Is the Tenant entitled to a rent refund?

Background and Evidence:

The Tenant and the Landlord agree that:

- on June 23, 2016 they signed a fixed term tenancy agreement;
- the tenancy agreement declared that the tenancy would begin on July 01, 2016;
- the tenancy agreement declared that the end of the fixed term of the agreement would be June 30, 2017;
- the parties agreed that rent of \$2,700.00 would be due, in advance, on the 31st day of each month;
- the Tenant paid rent of \$2,700.00 for July of 2016;
- rent for July has not been returned to the Tenant; and
- the Tenant was given the keys to the rental unit on June 23, 2016.

The Tenant stated that he moved some items into the rental unit but was waiting for his family to arrive from another province before moving furniture into the rental unit. He stated that he subsequently advised the Landlord(s) that he did not think the rental unit was suitable for his family; the Landlord(s) agreed to end the tenancy; and he returned the keys to the rental unit on July 03, 2016.

The Landlord stated that he moved some items into the rental unit; that he subsequently advised the Landlord(s) that he did not think the rental unit was suitable for his family; the Landlord(s) agreed to end the tenancy; and he returned the keys to the rental unit on July 07, 2016.

The Tenant is seeking a rent refund because he did not stay in the rental unit for the entire month of July. He stated that the Landlord(s) agreed to return the security deposit and that he assumed they would also return rent for July, although the issue of a rent refund was never discussed.

The Landlord stated that the Landlord(s) agreed to return the security deposit but they never agreed to return the rent that was paid for July. She stated that they did tell the Tenant that they would return a portion of the rent for July if they were able to re-rent the unit in July.

The parties agree that the words "void at the request of the tenant" were written on the last page of the tenancy agreement and that both parties signed that amendment.

Analysis:

On the basis of the testimony of both parties and the tenancy agreement submitted in evidence I find that the parties entered into a fixed term tenancy agreement that began on July 01, 2016.

On the basis of the testimony of both parties and the tenancy agreement submitted in evidence I find that the parties mutually agreed to end this tenancy, in writing. I

therefore find that this tenancy ended pursuant to section 44(1)(c) of the *Act*. As the amendment to the tenancy agreement, in which the parties agreed to “void” the agreement, is not dated, I find there is insufficient evidence to establish when the parties mutually agreed to end the tenancy.

On the basis of the testimony of both parties I find that the Tenant occupied the rental unit until at least July 03, 2016.

Section 26(1) of the *Act* requires tenants to 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. On the basis of the undisputed testimony that rent was due, in advance, on the 31st day of each month, I find that the Tenant was obligated to pay rent for July of 2016 by June 30, 2016.

There is nothing in the *Act* that entitles a tenant to a rent refund if they opt to vacate the rental unit before the end of the month for which rent was paid. There is nothing in the tenancy agreement which entitles the Tenant to a rent refund if he opts to vacate the rental unit before the end of the month for which rent was paid. In the absence of evidence that shows that the Landlord(s) agreed to refund any of the rent that was paid for July of 2016, I cannot conclude that the Tenant is entitled to a rent refund for any of the rent that was paid for July of 2016.

I find that the Tenant has failed to establish the merits of his Application for Dispute Resolution and I therefore dismiss his application to recover the fee for filing this Application.

Conclusion:

The Application for Dispute Resolution is dismissed, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 03, 2017

Residential Tenancy Branch