



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC MNR MNSD FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for a monetary Order for unpaid rent, a monetary Order for money owed or for compensation or loss; 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.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were personally served on the Tenant on November 24, 2008. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for loss of revenue between February 01, 2008 and March 15, 2008; to a monetary Order for the cost of advertising the rental unit; to keep all or part of the security deposit and pet damage deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Act*.

Background and Evidence

The Landlord submitted a tenancy agreement that establishes that the parties had a fixed term tenancy agreement that began on November 01, 2008 and was to end on October 31, 2008. The tenancy agreement established that the Tenant was required to pay monthly rent of \$1,500.00; that the Tenant paid a security deposit of \$775.00 on October 23, 2007; and that the Tenant paid a pet damage deposit of \$200.00 on October 23, 2007.

The Agent for the Landlord stated that on January 03, 2008, the Tenant provided the Landlord with written notice of his intent to vacate the rental unit on February 01, 2008. The Agent stated that the Tenant did vacate the rental unit on January 31, 2008. The Agent stated that the Tenant never provided the Landlord with a forwarding address, although the Landlord did know where the Tenant worked.

The Agent for the Landlord stated that the Landlord did not advertise the rental unit until February 15, 2008, which is more than forty-two days after the Tenant gave written notice of his intent to vacate. The Agent stated that the rental unit was not advertised earlier than that date because they did not have the keys to the rental unit and were unable to offer it for viewing.

The Agent for the Landlord stated that new tenants moved into the rental unit on March 15, 2008. The Landlord is seeking compensation, in the amount of \$2,325.00, for loss of rental income between February 01, 2008 and March 14, 2008.

The Landlord is seeking compensation, in the amount of \$231.21, for the cost of advertising the rental unit. The Landlord contends that this expense was a direct result

of the Tenant ending the fixed term tenancy early. The Landlord submitted receipts indicating the expenses were incurred.

Analysis

I find that the Tenant did not comply with section 45(2) of the *Act* when he ended the tenancy before the end of the fixed term tenancy. In the absence of mitigating circumstances, the Landlord would be entitled to compensation for any damages that flowed from the Tenant's non-compliance with the *Act*, which the Landlord contends is the loss of rental income and the cost of advertising.

In these circumstances, I find that the loss of rental income was directly related to the delay in advertising the rental unit. Had the Landlord advertised the rental unit on January 04, 2008, after receiving notification of the Tenant's intent to vacate the rental unit, it is reasonably likely that new tenants could have been located for February 01, 2008, and the Landlord would not have suffered a loss in rental income.

Section 7(2) of the *Act* requires parties who claim compensation for damage or loss that results from the other's non-compliance with this *Act*, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss. In these circumstances I find that the Landlord is not entitled to compensation for loss of rental income because he did not take reasonable steps to find new tenants for February 01, 2008, and I dismiss the Landlord's claim for compensation for lost revenue. I take judicial notice of the fact the Landlords regularly advertise rental units prior to the unit being vacant, and I find that the Landlord could have made arrangements to have prospective tenants view the rental prior to the end of this tenancy, even if they were not in possession of the keys.

I find that the Landlord is entitled to compensation, in the amount of \$231.21, for the expense of advertising the rental unit. I find that the Landlord incurred this expense because the Tenant ended the tenancy before the fixed term of the tenancy.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$281.21, which is comprised of \$231.21 in compensation for advertising costs and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I hereby authorize the Landlord to retain this amount from the security deposit that was paid by the Tenant. The Landlord must return the remaining amount of the security deposit and pet damage deposit, in the amount of \$693.71, plus \$17.97 in interest.

Dated: January 08, 2009