



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNDC & FF

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for monetary order totalling \$4950.00. The applicant is also requesting an order for the respondent to bear the \$50.00 cost of the filing fee paid for this hearing

Background and Evidence

The landlord testified that:

- The tenant's broke a one-year lease and as a result the landlord has lost the full rent for the months of April and May of 2008, totalling \$4000.
- He was unable to claim the April and May rent on a previous application because the application was filed before April 2008.
- He has spent \$557.45 in advertising in the months of April and May of 2008 and yet has still been unable to re-rent the rental unit.

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- In the rental agreement the tenant was required to keep the lawns mowed; however the tenant failed to do so and therefore the landlord is also asking for \$392.55 for lawn mowing.

The landlord is therefore asking for an order for the tenant to pay \$4950.00 for the above claimed items. The landlord is also asking the tenant the order to bear the \$50.00 cost to the filing fee paid for today's hearing.

The tenant testified that:

- She does not believe that the landlord took reasonable steps to mitigate the loss for the months of April and May 2008.
- It is also her belief that the landlord has been living in the rental unit and therefore should not be allowed to also claim for lost rent.
- She had attempted to mitigate by re-renting the unit herself and by attempting to get a roommate but she, as well, was unable to re-rent the rental unit.
- The landlord was already awarded rent for the four months prior to April 2008 and therefore should not be awarded a further two months rent because, if he was really trying to re-rent the unit he should have been able to do so in the four months prior.
- She has already paid the landlord for his advertising costs for April and May 2008 in the amount of \$533.70.

The tenant therefore asks that this application be dismissed.

The landlord responded to the tenant's claims stating that:

- The fact that he spent \$557.45 on advertising shows that he was attempting to mitigate his loss.
- He was not living in the rental unit in April and May of 2008 but he did move into the rental unit in June of 2008, since he was having no luck in re-renting the unit.

- It is not his fault that the unit wouldn't rent and he had told the tenant that it was difficult to re-rent a unit in the winter.

Analysis

It is my decision to the landlord has shown that he took reasonable steps to mitigate his loss. The landlord has done substantial advertising and the tenant has supplied no evidence to show that the landlord had any offers from new tenants to rent the dispute premises.

The tenant herself stated that even when she attempted to re-rent a unit she was unable to do so and this statement supports the landlord's claim that it was a difficult time to rent this unit.

I therefore allow the landlord's claim for \$4000.00 in lost revenue for the months of April and May 2008 and I also allow the claim of \$557.45 for advertising costs.

I deny the claim for grass cutting as there is nothing on the application referring to grass cutting, and although the landlord claims that he just lumped it all under advertising the tenant cannot reasonably expect that a claim for advertising would also include costs for grass cutting.

Conclusion

I've allowed \$4557.45 of the landlord's claim. I further ordered that the respondents bear the \$ 50.00 cost of the filing fee paid for this hearing.



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The tenants had already paid \$533.70 to the landlord for advertising, for the months of April and May 2008, and therefore I deducted that amount from the above claim and have issued an order for the tenants to pay \$4073.75 to the landlord

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: May 08, 2009.

Dispute Resolution Officer