



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, OPB, MNR, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid rent, for compensation for a loss of rental income and advertising expenses and to recover the filing fee for this proceeding. At the beginning of the hearing, the Landlord abandoned her application for an Order of Possession.

The Landlord said she served the Tenant with a copy of the Application and Notice of Hearing by registered mail on November 10, 2009 to a forwarding address provided by the Tenant. According to the Canada Post online tracking system, the hearing package was delivered on November 12, 2009. I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Is the Landlord entitled to compensation for a loss of rental income and her advertising expenses and if so, how much?

Background and Evidence

This fixed term tenancy started on March 1, 2009 and was to expire on March 1, 2010, however it ended on October 1, 2009 when the Tenant moved out. Rent was \$1,050.00 per month payable in advance on the first day of each month.

The Landlord said the Tenant did not pay rent when it was due for September 2009 and as a result, she posted a 10 Day Notice to End Tenancy for Unpaid Rent on the rental unit door on September 18, 2009. The Landlord said that she immediately started advertising the rental unit on Castanet (an online site) but when she had no responses, she advertised in a local newspaper. The Landlord said she found a new tenant who took possession of the rental unit on November 9, 2009. Consequently, the Landlord also sought a loss of rental income for October 2009 and for part of November 2009 as well as her advertising expenses.

The Landlord claimed that the Tenant failed to return his key at the end of the tenancy and therefore she incurred a \$10.00 Strata fee for it.



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Analysis

In the absence of any evidence from the Tenant to the contrary, I find that the Landlord is entitled to recover unpaid rent for September 2009 in the amount of \$1,050.00.

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a Landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a Landlord is entitled is an amount sufficient to compensate the Landlord for any loss of rent up to the earliest time the Tenant could have legally ended the tenancy. Section 45(2) of the Act says that a tenant of a fixed term tenancy cannot end the tenancy earlier than the date set out in the tenancy agreement as the last day of the tenancy. Section 7(2) of the Act states that a party who suffers damages must do whatever is reasonable to minimize their losses. This means that a landlord must try to re-rent a rental unit as soon as possible to minimize a loss of rental income.

I find that the Landlord took reasonable steps to try to re-rent the rental unit and as a result I find that she is entitled to compensation for a loss of rental income for October 2009 of \$1,050.00 and for part of November 2009 in the amount of \$270.00. I also find that the Landlord is entitled to recover her advertising expenses of \$168.17 and the Strata key replacement fee of \$10.00. As the Landlord has been successful in this matter, she is also entitled to recover her \$50.00 filing fee for this proceeding.

Conclusion

A monetary order in the amount of **\$2,598.17** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an Order of that Court.

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: November 19, 2009.

Dispute Resolution Officer