

DECISION

Dispute Codes: MNR MNDC MNSD FF

Introduction

This is the Landlord's application for an a Monetary Order for unpaid rent for the month of November, administrative costs and late fees; to apply the security deposit towards partial satisfaction of its monetary award; and to recover the cost of the filing fee from the Tenant.

I reviewed the evidence provided prior to the Hearing. The Landlord's agent gave affirmed testimony and this matter proceeded on its merits.

Issue(s) to be Decided

Is the Landlord entitled to:

- a Monetary Order pursuant to the provisions of Section 67 of the Act, and if so, in what amount;
- retain the security deposit in partial satisfaction of its monetary award; and
- recover the cost of the filing fee from the Tenant?

Background and Evidence

The Landlord's agent gave the following testimony and evidence

The Tenant and the Landlord entered into a six month term tenancy agreement on October 6, 2009. A copy of the tenancy agreement was entered in evidence. Rent was \$895.00 per month, due on the first day of each month. The term of the tenancy was from November 1, 2009 to April 30, 2010. The Tenant paid the Landlord \$450.00 on October 6, 2009. \$447.50 was applied towards the security deposit and the remaining \$2.50 was applied towards November's rent.

On October 31, 2009, the Tenant provided the Landlord with written notice that he would not be moving into the rental unit. The Tenant 's forwarding address was included in the notice.

On November 17, 2009, the Landlord's agent mailed the Tenant the Notice of Hearing documents, by registered mail to the address provided by the Tenant. A copy of the registered mail receipt and tracking number were provided in evidence.

The Landlord attempted to re-rent the rental unit immediately after receiving the Tenant's notice. The Landlord was able to re-rent the unit effective November 15, 2009, and accepted \$447.50 from the new tenant, for half a month's rent. The Landlord provided documentary evidence to support its claim that it attempted to mitigate its loss of rent for the month of November in a timely fashion.

Analysis

I am satisfied that the Tenant was served with the Notice of Hearing documents in accordance with the provisions of Section 89(d) of the Act. Service in this manner is deemed to be effected 5 days after mailing the documents. Therefore, I find that the Tenant was served with the Notice of Hearing documents on November 22, 2009. Despite being duly served, the Tenant did not sign into the teleconference and this matter proceeded in his absence.

Based on the undisputed testimony and evidence of the Landlord and its agent, I find that the Tenant entered into a term lease agreement with the Landlord and that the Tenant breached the agreement by ending the tenancy prior to the end of the term. I find that the Landlord is entitled to recover its loss of rent.

The Landlord applied for liquidated damages in the amount of \$300.00 and late fees in the amount of \$20.00.

The tenancy agreement includes a clause allowing a fee in the amount of \$20.00 to be charged to the Tenant for late payment of rent. It also includes a provision for liquidated damages, for administrative costs to re-rent the rental unit, in the amount of \$300.00 in the event the Tenant ends the tenancy before the end of the term. I find that the Landlord is entitled to these amounts.

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit towards partial satisfaction of its monetary claim. No interest has accrued on the security deposit.

The Landlord has been successful in its application and is entitled to recover the cost of the filing fee from the Tenant.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Description	Amount
November rent	\$895.00
Less credit	-\$2.50
Less amount recovered from new tenant	-447.50
Liquidated damages	\$300.00
Late fee	\$20.00
Recovery of filing fee	<u>\$50.00</u>
Subtotal	\$815.00
Less set-off of security deposit	<u>-\$447.50</u>
Total monetary award for the Landlord	\$367.50

Conclusion

I grant the Applicants a Monetary Order against the Respondent/Tenant in the amount of \$367.50. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) 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.

March 18, 2010

Date of Decision
