

DECISION

Dispute Codes MNR, FF

Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid utilities, for compensation for a loss of rental income and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant on November 12, 2009 with the Application and Notice of Hearing by registered mail to a forwarding address provided by the Tenant. Based on the evidence of the Landlord, 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 unpaid utilities and if so, how much?
2. Is the Landlord entitled to compensation for a loss of rental income and if so, how much?

Background and Evidence

This fixed term tenancy started on September 1, 2009 and was to expire on August 31, 2010, however it ended on September 30, 2009 when the Tenant moved out after he was served with a 10 Day Notice to End Tenancy for Unpaid Rent. Rent was \$1,075.00 per month payable in advance on the first day of each month plus ½ of the utilities for the rental property (ie. municipal utilities, oil and hydro).

The Landlord said she was unable to re-rent the rental unit until November 15, 2009 and therefore sought a loss of rental income and utility expenses for the month of October 2009. The Landlord also claimed that the Tenant did not pay utilities in full for the month of September 2009.

Analysis

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. If a tenant ends a tenancy earlier, they may have to compensate the landlord for a loss of rental income that she incurs as a result. 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.

The Landlord provided copies of advertisements showing that she started advertising the rental unit at the same rate of rent as early as September 18, 2009. In the absence

of any evidence from the Tenant to the contrary, I find that the Landlord is entitled to recover a loss of rental income for the month of October 2009 as well as her expenses for utilities.

The Landlord did not provide copies of utility invoices for the period in question but estimated the amount based on the information she received from the other tenant in the rental property. Based on that information, I find that the municipal utilities for a 4 month period were \$108.00 and that as a result, the Tenant's share for 2 months would be \$27.18. I also find that the Tenant's share for oil would have been \$100.00 per month or \$200.00 for a 2 month period. I further find that hydro was \$65.00 per month so that the Tenant's share would have been \$32.50 per month or \$65.00 for a 2 month period. The Landlord said the Tenant paid \$32.50 for hydro for September 2009.

As the Landlord has been successful in this matter I also find that she is entitled to recover her registered mail expenses of \$12.66 and the \$50.00 filing fee for this proceeding. Consequently, the Landlord has made out a claim for the following amount:

Loss of rental income:	\$1,075.00
Municipal utilities:	\$27.18
Heating oil expenses:	\$200.00
Hydro:	\$65.00
Registered mail:	\$12.66
Filing fee:	<u>\$50.00</u>
Subtotal:	\$1,429.84
Less: Hydro Payment:	<u>(\$32.50)</u>
Balance Owing:	\$1,397.34

Conclusion

A Monetary Order in the amount of **\$1,397.34** 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: March 10, 2010.

Dispute Resolution Officer