



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, FF

Introduction

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

The hearing started as scheduled at 9:00 a.m. however by 9:10 a.m. the Landlord had not dialled into the conference call and as a result, the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Is the Landlord entitled to compensation for a loss of rental income and if so, how much?

Background and Evidence

This one year fixed term tenancy was supposed to start on June 15, 2009 and expire on May 31, 2010 however shortly after taking possession of the rental unit, the Tenant cancelled the tenancy agreement. Rent was \$1,400.00 per month. The Tenant paid a security deposit of \$700.00 which was ordered to be returned to him with compensation in a previous proceeding.

Counsel for the Tenant argues that the Landlord has provided no evidence that she suffered a loss of rental income or if she did, she has provided no evidence that she attempted to mitigate her losses. The Landlord provided no documentary or oral evidence in support of her application.

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 he 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.



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In this matter, the Landlord has the burden of proof and must show (on a balance of probabilities) that she suffered a loss of rental income as a result of the Tenant ending the tenancy early. The Landlord must also show that she took reasonable steps to try to re-rent the rental unit as soon as possible. However, I find that the Landlord has provided no evidence that she suffered a loss of rental income or that she took reasonable steps to re-rent the rental unit. Consequently, the Landlord's application is dismissed without leave to reapply.

Conclusion

The Landlord's application is dismissed without leave to reapply. 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: July 19, 2010.

Dispute Resolution Officer