



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, FF, O

Introduction

This was the hearing of an application by the landlord for a monetary order. The tenant applied for other relief; her application is a dispute to the landlord's application for a monetary order. On October 6, 2010 the tenant submitted documents including a letter wherein she requested that the hearing be adjourned and rescheduled for a later date. The landlord did not receive a copy of the tenant's request for an adjournment and he does not consent to an adjournment. The tenant did not call into the hearing to participate and she did not have an agent attend on her behalf to request an adjournment. I decline to grant the tenant an adjournment. The tenant made her request one day before the hearing and she did not provide the landlord with a copy of her request. The tenant claimed that she needs time to prepare evidence to submit, but she stated in her material that she received the landlord's application for dispute resolution in July and she has had three months to submit evidence. The tenant complained that the landlord sent the application for dispute resolution to her by ordinary mail instead of serving it personally or by registered mail as required by the *Residential Tenancy Act*. Because the tenant has acknowledged that she did receive the application for dispute resolution and Notice of Hearing, I find, pursuant to section 71(2) (b) of the *Residential Tenancy Act* that the landlord's application for dispute resolution and Notice of Hearing have been sufficiently served on the tenant for the purposes of the Act on July 7, 2010. I kept the hearing open until after 9:10 A.M. In the absence of an appearance by the tenant her application is dismissed without leave to reapply.

Issues(s) to be Decided

Is the landlord entitled to a monetary order and if so, in what amount?

Background and Evidence

The rental unit is an apartment in North Vancouver. On April 14, 2010 the tenant agreed to rent the unit at a monthly rental of \$1,625.00 commencing on or about April 15, 2010. According to the landlord the tenant agreed to pay the landlord partial rent for April for immediate occupation in the amount of \$406.25 and rent for May in the amount of \$1,625.00. The tenant signed a tenancy agreement and gave the landlord three cheques, one in the amount of \$406.25, one in the amount of \$812.50 as payment of a security deposit and one for \$1,625.00 as payment of May rent.

On April 15, 2010 the tenant stopped payment of her cheques and advised the landlord that she would not move in because she lost her job. The tenant stated in her application that the landlord: "was able to rent said rental unit w/ no loss of Income to him..." In her October 6th letter the tenant said: "I NEVER MOVED IN TO THIS RESIDENCE, and my understanding is he was able to rent the suite soon after." (reproduced as written)

In his application the landlord claimed payment of the sum of \$2,031.25. being rent for May and the amount of \$406.25 agreed to be paid for April. The landlord testified that he was successful in re-renting the unit commencing May 15, 2010. He reduced his claim to \$1,625.00.00.

Analysis and conclusion

The evidence established that the tenant agreed to rent the unit effective April 15th. Her personal circumstances are the reason given for ending the tenancy; they do not constitute a defence to the landlord's claim for a monetary order for breach of the

tenancy agreement including payment of rent and loss of revenue. I accept the landlord's testimony that he mitigated his loss by re-renting the unit effective May 15, 2010. I do not find that the landlord is entitled to claim the amount of \$1,625.00 because he agreed to accept payment of \$406.25 for April, rather than payment of a half month's rent. I find that the landlord is entitled to a monetary award of \$1,218.75, being the agreed rent for April and one half month's lost rent for May. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,268.75 and I grant the landlord an order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court.