



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, 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 Landlord said on May 19, 2011 he served the Tenants by registered mail with the Application and Notice of Hearing (the "hearing packages") to the Tenants' respective residences listed on their application for residency. The Landlord said the hearing packages were received by or on behalf of the Tenants according to the Canada Post online tracking system. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing packages as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

Issue(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

The Parties entered into a written tenancy agreement on April 20, 2011 for a 3 month fixed term tenancy commencing May 1, 2011. Rent was \$1,300.00 per month payable in advance on the 1st day of each month. The Landlord said one of the Tenants gave him a cheque for a security deposit of \$650.00 which was unpaid because that Tenant put a stop payment on the cheque.

The Landlord said one of the Tenants advised him by e-mail on April 27, 2011 that they would not be moving into the rental unit. The Landlord said he immediately posted advertisements on some online publications to try to re-rent the rental unit for May 2011 however he was unable to re-rent it until June 1, 2011 (at a reduced rent of \$1,275.00 per month). Consequently, the Landlord said he lost rental income for May 2011. The Landlord said he also incurred bank charges of \$7.00 as a result of one of the Tenants putting a stop payment on the security deposit cheque.

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.

In the absence of any evidence from the Tenants to the contrary, I find that the Tenants ended this tenancy on April 27, 2011 prior to taking possession of it. I also find that the Landlord took reasonable steps to try to re-rent the rental unit for May 2011 but was unable to do so and lost rental income for that month. Consequently, I find that the Landlord is entitled to compensation for a loss of rental income for May 2011 in the amount of \$1,300.00. I also find that the Landlord is entitled pursuant to s. 7 of the Regulations to the Act to recover bank expenses of \$7.00 for a returned cheque. As the Landlord has been successful in this matter, he is entitled pursuant to s. 72(1) of the Act to recover from the Tenants the \$50.00 filing fee for this proceeding.

RTB Policy Guideline #13 states at p. 1 that “co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.”

Conclusion

A Monetary Order in the amount of **\$1,357.00** has been issued to the Landlord and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, 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: August 29, 2011.

Residential Tenancy Branch