



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

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

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

On October 1, 2010, the Parties entered into a verbal agreement for the rental of a fenced acreage containing an RV site for the monthly rent of \$450.00. The Tenant paid rent for October 2010 and gave the Landlord a security deposit of \$225.00. The Parties then verbally agreed that they would meet on or about November 5, 2010 (when the Landlord returned from holidays) at which time the Tenant would make a rent for November 2010 and execute a written tenancy agreement. The Parties agree that it was the Tenant's intention to purchase a manufactured home to put on the RV site.

The Landlord said she contacted the Tenant by telephone on November 5, 2010 and he advised her that he had not yet purchased a manufactured home. The Landlord said she told the Tenant that she had other prospective tenants interested in the property but the Tenant assured her that he still wanted to rent the property and would bring her his rent payment for November on or about the 15th of that month. The Landlord said the Tenant never contacted her again and she could not reach him. Consequently, the Landlord said she gave up on the Tenant and at the beginning of December 2010 she offered the property to other interested parties who agreed to rent it for January 2011.

The Tenant initially claimed that on November 5, 2011 he told the Landlord that he was still interested in the property but that he was having trouble getting financing to purchase a manufactured home and didn't want to commit to a lease if he could not get financing. Consequently, the Tenant said he told the Landlord that she could go ahead and rent the property to someone. The Tenant then said he told the Landlord that he could not pay her rent for November 2010 so that she should rent the property to

someone else. The Tenant subsequently claimed that he refused to pay rent for November, 2010 because he did not think he should have to pay rent for a property on which he was not living. The Tenant admitted that there was a verbal tenancy agreement and that he did not give the Landlord written notice that he was ending the tenancy.

Analysis

I find that the Parties entered into a month-to-month tenancy agreement for the RV site. Section 38(1) of the Act states that a Tenant of a month-to-month tenancy must give a Landlord one full, calendar month's notice in writing that they are ending the tenancy. If a tenant fails to do so, 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.

Although the Tenant argued that he made it clear to the Landlord on November 5, 2010 that he no longer intended to rent the property, I find on a balance of probabilities that this was not the case. In particular, I found the Tenant's evidence on this point to be unreliable because it changed a number of times. The Tenant initially claimed that he told the Landlord on November 5, 2010 that he was still interested in the property but had concerns about whether he would get financing to purchase a manufactured home but later changed his evidence and claimed that he refused to pay rent for November 2010 because he didn't want to pay rent for a property on which he was not living. Consequently, I find the Landlord's version of events more likely and conclude that the Tenant did advise her on November 5, 2010 that he was still interested in renting the property but was waiting for financing which he expected to come through on or about the middle of that month and that he would pay the rent at that time but failed to contact the Landlord thereafter to advise her of his intentions.

In any event, section 38(1) of the Act requires a Tenant to give a Landlord one clear calendar month's notice in writing that they are ending a tenancy. I find that the Tenant did not give the Landlord written notice that he was ending the tenancy and therefore on that basis alone he is liable for a loss of rental income incurred by the Landlord for November and December 2010 in the total amount of \$900.00. As the Landlord has been successful in this matter, I also find that she is entitled pursuant to s. 65(1) of the Act to recover from the Tenant the \$50.00 filing fee she paid for this proceeding.

Conclusion

A Monetary Order in the amount of **\$950.00** 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 *Manufactured Home Park Tenancy Act*.

Dated: September 22, 2011.

Residential Tenancy Branch