



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for unpaid rent and to recover the cost of the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on September 24, 2011. Mail receipt numbers were provided in the Landlord's evidence. Based on the written submission of the Landlord I find the Tenant has been sufficiently served notice of this proceeding in accordance with the *Act*.

The Landlord and his Agent appeared at the teleconference hearing, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. No one appeared at the hearing on behalf of the Tenant despite him being served notice of this proceeding in accordance with the *Act*.

Issue(s) to be Decided

1. Has the Tenant breached the *Residential Tenancy Act* (the *Act*), Regulation, and or tenancy agreement?
2. If so, has the Landlord met the burden of proof to establish a loss as a result of that breach?

Background and Evidence

The parties entered into a fixed term tenancy agreement that began on June 1, 2010 and was set to switch to a month to month tenancy after June 1, 2011. Rent was payable on the first of each month in the amount of \$850.00 and the Tenant paid \$425.00 on June 1, 2010 as the security deposit.

The Landlord and his Agent affirmed that the Tenant communicated his intent to end his tenancy in a social media posting on March 8, 2011. The Tenant had vacated the property leaving the keys inside the rental unit by March 17, 2011 and informed the Landlord and Agent on the social media website that they could dispose of his possessions that were left inside the rental unit. The Tenant had paid March 2011 rent in full.

The Landlord was able to re-rent the unit effective April 1, 2011 at the same rental amount of \$850.00. He is seeking monetary compensation of \$1,700.00 which is the two months that were remaining on the Tenant's fixed term lease for April and May 2011.

Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*. Accordingly an applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement; and
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation; and
3. The value of the loss; and

4. The party making the application did whatever was reasonable to minimize the damage or loss.

In this case the evidence supports the Tenant breached the Act by ending his tenancy prior to the end of the fixed term and without proper notice. That being said, the Landlord did what was required to mitigate his losses and was able to re-rent the unit as of April 1, 2011. Therefore the Landlord did not suffer a loss in rent as the Tenant paid all of March 2011 rent and the new Tenant began paying rent as of April 1, 2011. Accordingly I dismiss the Landlord's application for loss of rent.

The Landlord has not been successful with his application; therefore he must bear the burden of the cost to file his application.

Conclusion

I HEREBY DISMISS the Landlord's application.

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: November 30, 2011.

Residential Tenancy Branch