



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF, SS

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only, the tenant did not attend

The landlord testified she served the tenant with the notice of hearing documents and her Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on January 19, 2012 in accordance with Section 89, at the tenant's place of business.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for monies owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted a copy of a tenancy agreement signed by the parties on March 14, 2011 for a 1 year and 1 day fixed term tenancy beginning on March 31, 2011 for a monthly rent of \$2,000.00 due on the 1st of each month, no security deposit was paid.

The landlord testified the tenant's rent cheque for the month of October was returned as having insufficient funds and that the tenant, on or before October 21, 2011 vacated the rental unit without notice to the landlord of the tenant's intention to end the tenancy.

The landlord testified that she has been trying to rent the property since that time and has only recently succeeded in renting the unit, effective March 15, 2012. The landlord provided evidence that she advertised the rental unit in the local papers and that she attempted to hire a property management company, but had been unsuccessful until recently.

The landlord seeks compensation for the rent for the month of October 2011 and for the loss of rental income for the months of November and December 2011 and January, February and ½ of March 2012.

The landlord also seeks compensation for 8 hours of cleaning at \$15.00 per hours; legal fees for consultation with legal counsel of \$25.00; advertising costs at \$60.54; unpaid water utility costs in the amount of \$377.51 and \$150.00 for vacancy insurance.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

I accept, from the landlord's testimony and in the absence of any contradictory evidence or testimony, that the tenant's failed to pay rent for the month of October 2011, in violation of the tenancy agreement.

Section 45 of the *Act* stipulates that a tenant may not end a fix term tenancy until the end date identified in the tenancy agreement as the end of the tenancy. As the end of the tenancy, as per the tenancy agreement, was March 31, 2012, I find the tenant's are responsible for the payment of rent for the period ending on March 31, 2012.

However, the *Act* also requires, under Section 7 that a party making a claim against the other party in a tenancy agreement must take all reasonable steps to mitigate the loss or damage. I accept, from the landlord's testimony and in the absence of any contradictory evidence or testimony, that the landlord took all reasonable steps to re-rent the unit to another party.

I accept the landlord was able to find new renters effective March 15, 2012 and as such I find the amount of lost rent the landlord has suffered is the equivalent of 5 months worth of rent less ½ month for a total of \$9,000.00.

I accepted, based on the submission of the bill from the water utility provider that the tenant is responsible for the payment of the water bill in the amount of \$377.51. I also accept that the landlord incurred costs for advertising and for vacancy insurance based on the tenant's failure to complete the fixed term tenancy and I find the landlord is entitled to reimbursement for these costs from the tenant.

I accept, from the landlord's testimony and in the absence of any contradictory evidence or testimony, that the rental unit required 8 hours of cleaning and I find the rate of \$15.00 to be reasonable for this work.

As to the fees to consult legal counsel, I find this to be a cost of doing business and I dismiss the landlord's claim for this amount.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$11,808.05** comprised of \$2,000.00 rent owed; \$9,000.00 lost rental income; \$120.00 cleaning; \$60.54 advertising; \$377.51 water utility; \$150.00 vacancy insurance and the \$100.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: February 20, 2012.

Residential Tenancy Branch