



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent and compensation for loss under the Act.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on June 11, 2012, a Canada post tracking number was provided as evidence of service, the tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and loss under the Act?

Background and Evidence

The parties entered into a two year fixed term tenancy on May 20, 2011. Rent in the amount of \$3,720.00 was payable on the first of each month. A security deposit of \$1,750.00 was paid by the tenants. The tenants vacated the rental unit on May 7, 2012, pursuant to a ten day notice. Filed in evidence is a copy of the tenancy agreement.

The parties were at a Dispute Resolution Hearing on May 23, 2012. The landlord was granted a monetary order for unpaid rent for May 2012, and was granted permission to retain the security deposit in partial satisfaction of the claim. At the hearing the tenants were put on notice that the landlord was seeking damages for loss of rent for June 2012.

The landlord testified that on May 6, 2012, she advertised the rental unit in a local classified add on a popular local website and was not able to have the unit rented for

June 1, 2012. However, on May 14, 2012, she entered into a new fixed term tenancy fixed agreement which began on June 15, 2012. The landlord seeks to recover the difference in the two rents for the month of June 2012, in the amount of \$1,750.00. Filed in evidence is a copy the new tenancy agreement.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The tenants breached the Act and the tenancy agreement by failing to pay rent when rent was due and pursuant to a ten day notice vacated the rental unit on May 7, 2012.

The landlord is entitled to an amount sufficient to put the landlord in the same position as if the tenant had not breached the tenancy agreement. This includes compensating the landlord for any loss of rent up to the earliest time that the tenants could have legally ended the tenancy.

The Residential Tenancy Act states - Tenant's notice

45 (2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(b) is **not earlier than the date specified in the tenancy agreement** as the end of the tenancy.

In this case, the earliest date the tenants could have legally ended the tenancy was May 31, 2013, as stated in the tenancy agreement.

The landlord mitigated the loss by advertising the rental unit on May 6, 2012, and on May 14, 2012, the landlord entered into a new fixed term tenancy agreement which began June 15, 2012.

As a result, I find the landlord is entitled to compensation for loss of rent for the month of June 2012. The landlord is granted the difference between the two rents, in the amount of **\$1,750.00**.

I find that the landlord has established a total monetary claim of **\$1,800.00** comprised of loss of rent for June 2012 and the \$50.00 fee paid by the landlord for this application. I grant the landlord an order under section 67 for the above amount.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The landlord is granted a monetary order in the above amount

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 09, 2012.

Residential Tenancy Branch