



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, O

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Is the landlord entitled to the recovery of advertising and postage costs?

Background and Evidence

The tenancy began on or about December 29, 2011 and was to end on December 31, 2012. Rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$425.00. At the outset of the hearing the landlord advised the tenants no longer lived in the unit and an order of possession is not required; accordingly I dismiss that portion of the landlord's application.

The landlord gave the following testimony; the tenants had discussed "breaking the lease" with him in late May, the landlord was open to the idea as long as he received a proper one month's notice, on June 18, 2012 the landlord conducted a condition inspection of the unit at the tenants request as they were planning to go to Europe for three months, the landlord agreed to do the inspection and found no deficiencies in the unit, the tenants subsequently gave notice the following day that they would be

terminating their tenancy immediately without one months' notice or any mutual agreement, the landlord is seeking loss revenue for the months of July and August as he has re-rented the unit for September, seeking to recover the costs of advertising and the cost of registered mail, and is seeking the recovery of the filing fee.

The agent for the tenant's gave the following testimony; seeking to have the matter adjourned for three months to allow the tenants to return from backpacking in Europe and deal with this matter on their own, the tenant's have evidence that they wish to present, feels it's unfair that the landlord seek two months of loss revenue, feels the landlord is "putting the screws" to the tenants, the tenant's moved out due to mould and health issues related to the unit.

Analysis

The landlord provided a copy of the tenancy agreement for this hearing that reflects that this was to be a fixed term tenancy that was signed by all parties. The tenant's agent stated that they was an agreement to end tenancy between the parties however he was unable to provide any documentary evidence to support that. The tenant's agent stated that the tenant's moved out early due to mould issues in the unit and that the tenant had evidence to prove their claim and that evidence is stored in a storage locker. I asked the tenant's agent if he had access to that information and he replied "yes I do". The landlord filed for dispute resolution on July 3, 2012. The tenant's had ample opportunity to make arrangements with their agent to have any and all documentary evidence supplied for this hearing to be considered. I do not accept the tenant's agent position that it was "impossible" for them to provide evidence for this hearing. The agent gave affirmed testimony that he had access to the storage locker and all evidence therein.

As the landlord is the sole applicant in this matter I will deal with each of his claims as follows:

First Claim – The landlord is seeking the recovery of advertising costs in the amount of \$28.00. The landlord did not provide any documentary evidence or receipts to support this portion of his claim and I therefore dismiss this portion of his application.

Second Claim- The landlord is seeking the recovery costs of registered mail to serve the documents to the tenants. The Act doesn't allow for the recovery costs associated with the administration of litigation; I therefore dismiss this portion of his application.

Third Claim- The landlord is seeking the recovery of two months loss of revenue. The tenant's were obligated to give the proper notice as is the requirement under the Act, which they did not. However the landlord also bears the responsibility to mitigate his losses and make every reasonable effort to re-rent the suite. I do find the landlord is entitled to the recovery of loss revenue for the equivalent of one months' rent, not the two months sought. The landlord did not provide any documentary evidence or offer any testimony as to what he did to mitigate his losses in the second month. I find the landlord is entitled to \$850.00.

As for the monetary order, I find that the landlord has established a claim for \$850.00. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$425.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$475.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$475.00. The landlord may retain the security deposit.

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: September 12, 2012.

Residential Tenancy Branch