



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail on August 09, 2012. Mail receipt numbers were provided in the landlord's documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

The landlord testifies that this tenancy started on May 1, 2011. This was a fixed term tenancy that was due to expire on September 31, 2011. The tenants vacated the rental unit on May 31, 2011. Rent this unit was \$610.00 and was due on the first day of each month in advance.

The landlord testifies that the tenants sent the landlord a notice to end tenancy on May 30, 2011. This notice was effective on May 31, 2011 and the tenants moved from the rental unit on that day. Due to this late notice the landlords were unable to re-rent the rental unit until August 1, 2011. The landlord testifies that they did make attempts to re-rent the unit and they did have some offers; however these offers were withdrawn and the landlords continued try to re-rent the unit.

The landlord testifies that they require one clear months written notice to end a tenancy and this must be given to the landlord on the day before the day that rent is due. The landlord testifies that consequently they seek to recover a loss of rent for June 2011 of \$610.00.

Analysis

I refer the parties to section 45(1) of the *Residential Tenancy Act (Act)* which states:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

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

- (a) is not earlier than one month after the date the landlord receives the notice,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

As this was a fixed term tenancy which did not expire until September 31, 2011, I find the tenants were not entitled to end the tenancy before the end of the fixed term with or without written Notice unless there was a mutual agreement with the landlord that enabled the tenants to do so. Even if this was a month to month tenancy the tenants would still be deemed to have given the landlord insufficient notice to end the tenancy as the landlords received the Notice on May 30, 2011 and the tenants vacated on May 31, 2011.

Consequently, I find the landlord is entitled to recover unpaid rent as claimed for June, 2011 to the sum of \$610.00.

As the landlord has been successful with this application I find the landlord is also entitled to recover the \$50.00 filing fee from the tenants pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord to the sum of **\$660.00** pursuant to s. 67 and 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$660.00**. The order must be

served on the respondent and is enforceable through the Provincial Court 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: October 25, 2012.

Residential Tenancy Branch