



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 by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income and for the recovery of the filing fee.

The landlord testified that on September 25, 2012 he served the tenant with the notice of hearing and evidence package by registered mail to the address provided by the tenant in writing. The landlord filed a tracking slip.

Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order loss of income and for the recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy started on April 12, 2012 for a fixed term of one year. The monthly rent was \$1,750.00. On May 23, 2012, the tenant gave the landlord written notice to end the tenancy for financial reasons and moved out on May 31, 2012.

The landlord made efforts to find a tenant by advertising on popular websites and posting signs. The landlord stated that he got a better response later in summer and found a tenant for August 15, 2012. The landlord is claiming a loss of income for two and a half months in the total amount of \$4,375.00 plus \$50.00 for the filing fee.

Analysis

Section 45(2) of the *Residential Tenancy Act* states that 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 on which the tenancy is based that rent is payable under the tenancy agreement.

Based on the undisputed testimony and documentary evidence of the landlord, I find that by moving out sometime in May 2012, the tenant was not in compliance with the terms of the fixed term tenancy agreement, thereby causing the landlord to incur a loss.

Section 7 of the *Residential Tenancy Act* states that a landlord who claims compensation for loss that results from the tenant's non-compliance with the *Act*, the regulations or their tenancy agreement must do whatever is reasonable to minimize the loss.

The landlord has proven that he mitigated his losses by advertising the vacancy and actively looking for a tenant.

I find that the landlord is entitled to the loss of income in the amount of his claim of \$4,375.00 that he incurred for the period of June 01 to August 15, when the rental unit was vacant. Since the landlord has proven his case, he is also entitled to the filing fee of \$50.00.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount due of \$4,425.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order of **\$4,425.00**.

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: December 13, 2012.