



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Seamount Investments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order for the recovery of the filing fee paid to bring this application. The landlord testified that he served the tenant with the application for dispute resolution and notice of hearing via registered mail sent on June 18, 2013 and also personally served the tenant on July 11. Although the tenant did not appear at the hearing, I found that he had notice of the hearing and of the claim against him and the hearing proceeded in his absence.

At the hearing, the landlord advised that the tenant had surrendered the keys to the rental unit on July 11. As an order of possession is no longer required, I consider that claim to have been withdrawn.

At the hearing, the landlord asked to amend his claim to include a claim for occupational rent for that part of July in which the tenant occupied the rental unit. I found it reasonable that the tenant should have known that the landlord could not re-rent the unit while he was still living therein and I allowed the amendment.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenant provided the landlord with written notification that he would be ending his tenancy on May 31, but did not move his belongings out of the unit on that date and failed to pay rent for the month of June. The tenant did not surrender keys to the unit until July 11.

The landlord seeks loss of income from June 1 – July 11, the date when the tenant surrendered possession of the unit.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant did not vacate the rental unit May 31 by removing both himself and his belongings as promised and that he overheld the rental unit until July 11 when he surrendered possession by returning his keys to the landlord. Pursuant to section 57(3) of the Act, I find that the landlord is entitled to recover occupational rent from the tenant for the period from June 1 – July 11.

Rent was set at \$600 per month. I award the landlord \$600.00 for the month of June and \$212.85 for 11 days of July at a daily rate of \$19.35. I find that the landlord is also entitled to recover the filing fee paid to bring his application and I award him \$50.00 for a total entitlement of \$862.85.

Conclusion

I grant the landlord a monetary order under section 67 for \$862.85. This order may be filed in the Small Claims Division of the Provincial Court and 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: July 18, 2013

Residential Tenancy Branch

