



Dispute Resolution Services

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 for a monetary order. Both parties participated in the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began in August 2010 and by the terms of a written tenancy agreement was set to run until July 31, 2011, after which it would convert to a month to month tenancy. At some point in 2012, the tenant gave the landlord verbal notice that she would be vacating the rental unit at the end of October 2012. The tenant acknowledged that she did not give written notice and stated that she believed verbal notice would be sufficient as she understood that she had a verbal tenancy agreement with the landlord after the fixed term expired.

The landlord seeks to recover \$1,800.00 in lost income for the month of November 2012. He stated that because the tenant gave inadequate notice and because she vacated the rental unit on October 27, 2012, the rental unit was empty from October 28-November 1 and at some point during those days, thieves broke into the unit and stole the appliances and copper piping. The landlord testified that he did not re-rent the unit as it took some time to repair and replace the damage from the break-in and that they chose instead to develop the property.

Analysis

I find that the parties had a written tenancy agreement which converted to a month to month tenancy after the expiry of the fixed term. However, even if the agreement had

been verbal, the tenant was still required under the Act to give her notice to vacate in writing.

Although the tenant failed to meet her obligations under the Act, the landlord is not automatically entitled to recover lost rent for the month following the end of the tenancy. In order to succeed in his claim, the landlord must prove that the income was lost because of the tenant's breach. I find that the income was not lost because of the tenant's actions, but because of the actions of the thieves. The tenant paid full rent for the month of October and chose to surrender possession on October 27 as was her right. While it may be true that the break-in would not have occurred had the tenant been living in the unit at the end of October, the tenant had surrendered the unit to the landlord and therefore had no control over who came and went into the unit after October 27. I find that the insufficient notice by the tenant was not the cause of the loss and therefore the tenant cannot be held liable for the loss.

Conclusion

The claim is dismissed.

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 30, 2013

Residential Tenancy Branch

