



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The landlord provided evidence that the Notice to end Tenancy dated July 3, 2013 was served by posting it on the door and the Application for Dispute Resolution by registered mail. It was verified online that the registered mail was available from July 31, 2013 to August 27, 2013 and after being unclaimed and several notices being left, it was returned. I find the tenant is deemed to be served with the Application/Notice of Hearing according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated July 3, 2013 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

The tenant did not attend but is deemed to be served with the Application/Notice of Hearing. The landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The sworn evidence is that the tenancy commenced in April 2013 on a fixed term lease to March 31, 2014, a security deposit of \$580 was paid and rent is \$1160 a month. The landlord is claiming rental arrears and loss of \$3480 for rent for July, August and September 2013. They said the tenant apparently left sometime in August so they no longer need an Order of Possession. However, although advertising continually, they were unable to re-rent the unit before

October 1, 2013. As it is a fixed term lease, the landlord is claiming the rental loss until that date. The tenant submitted no documents to dispute.

In evidence is a rental ledger, a copy of the lease, Notice to End Tenancy and proof of service.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

I find the landlord no longer requires an Order of Possession as the tenant vacated sometime in August 2013. I find that there are rental arrears plus loss in the amount of \$3480 representing rental arrears for July and rental loss for August 2013 and September 2013. I find the landlord fulfilled their obligation to mitigate their loss by trying to re-rent when this fixed term lease was broken but were unable to re-rent until October 1, 2013. The landlord's oral evidence is well supported by the documents in evidence.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application.

Calculation of Monetary Award:

Rental arrears and loss	3480.00
Filing fee	50.00
Less security deposit (no interest 2013)	-580.00
Total Monetary Order to Landlord	2950.00

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: September 05, 2013

Residential Tenancy Branch

