



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail to each tenant, none of the tenants appeared. Evidence submitted by the landlord includes the Canada Post tracking numbers for each of the 3 pieces of registered mail. The Canada Post website informs that the item was "successfully delivered" to tenant "MK," and "successfully delivered" to tenant "DM," and was "unclaimed" by tenant "JM."

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from May 1, 2013 to April 30, 2014. Monthly rent of \$1,800.00 is due and payable in advance on the first day of each month, and a security deposit of \$900.00 was collected.

By way of telephone on May 28, 2013, tenant "MK" informed the landlord of the tenants' intention to vacate the unit May 28, 2013. Subsequently, however, the tenants agreed to delay the end of tenancy to June 30, 2013.

The landlord testified that advertising for new renters was undertaken on-line and by way of a newspaper. Despite this, new renters were not found until effective September 1, 2013. The landlord seeks compensation reflecting loss of rental income for July and

August 2013, in addition to the cost of removing garbage left behind by the tenants, and recovery of the filing fee.

Sometime after the end of tenancy the landlord repaid the security deposit to the tenants in the full amount of \$900.00.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 45 of the Act speaks to **Tenant's notice**, in part as follows:

45(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.

Section 7 of the Act addresses **Liability for not complying with this Act or a tenancy agreement**:

7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants' notice to end the fixed term tenancy does not comply

with the above statutory provisions. I further find that the landlord undertook to mitigate the loss of rental income by advertising for new renters in a timely fashion. In the result, I find that the landlord has established entitlement to compensation reflecting loss of rental income for July and August 2013 in the total amount of **\$3,600.00** (2 x \$1,800.00).

Based on the documentary evidence which includes a receipt, and the affirmed / undisputed testimony of the landlord, I also find that the landlord has established entitlement to compensation incurred in the amount of **\$15.00** for removal of garbage left behind by the tenants.

As the landlord has succeeded with her application, I find that she has also established entitlement to recovery of the **\$50.00** filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$3,665.00** (\$3,600.00 + \$15.00 + \$50.00). Should it be necessary, this order may be served on the tenants, filed in the Small Claims 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: January 02, 2014

Residential Tenancy Branch

