



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent. The notice of hearing was served on the tenant on November 22, 2013 by registered mail. The landlord filed a copy of the 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.

The landlord stated that on November 27, 2013, she found that the tenant had moved out. Since the tenant has moved out, the landlord withdrew her application for an order of possession. Therefore, this hearing only dealt with the landlord's monetary claim.

Issues to be decided

Is the landlord entitled to a monetary order to recover unpaid rent?

Background and Evidence

The tenancy started on October 01, 2013 for a fixed term of one year. The monthly rent is \$1,150.00 due on the first of each month. Prior to moving in the tenant signed an incentive agreement. The landlord offered the first month rent free on condition that the tenant did not end the tenancy prior to the end date of September 30, 2014. By signing the agreement, the tenant agreed to pay rent for the first month of tenancy if he breached the terms of the tenancy agreement and ended the tenancy prior to the end date of the fixed term.

The landlord testified that the tenant did not pay rent for November and on November 04, 2013; the landlord served the tenant with a notice to end tenancy for non payment of rent. The tenant did not pay rent and moved out without informing the landlord. The landlord stated that the availability of the unit was advertised immediately, but due to the slow holiday season a tenant was not found for December and January.

The landlord is claiming a total of \$4,600.00 for unpaid rent and for loss of income. The landlord is also claiming \$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.

In this case the tenant ended the fixed term without informing the landlord and is therefore liable for any losses the landlord may have suffered as a result of the breach of the fixed term. Based on the undisputed sworn testimony of the landlord and the documentary evidence filed by the landlord, I accept the landlord's evidence in respect of the claim.

I find that the landlord is entitled to \$2,300.00 for unpaid rent plus \$2,300.00 for loss of income. Since the landlord has proven her case she is also entitled to the recovery of the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for \$4,650.00. 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 in the amount of **\$4,650.00**.

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: January 16, 2014

Residential Tenancy Branch