



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, OPB, MNR, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for loss of income, unpaid utilities, travel expenses and the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Since the tenant moved out on February 28, 2014, the landlord withdrew his 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 loss of income, unpaid utilities, travel expenses and the filing fee?

Background and Evidence

The tenancy started on November 01, 2013 for a fixed term ending March 31, 2014. The monthly rent was \$1,600.00 due in advance on the first of each month. On January 31, 2014, the tenant gave notice to end the tenancy effective February 28, 2014. On February 01, 2014, the landlord listed the house for sale and found a buyer who took possession of the rental unit on March 24, 2014.

The landlord is claiming the following:

1.	Utilities for February 2014	\$433.50
2.	Loss of income for March 2014	\$1,600.00
3.	Utilities for March 2014	\$362.98
4.	Movie rental	\$21.95
5.	Travel expenses (flight and gas)	\$127.90
6.	Filing fee	\$50.00
	Total	\$2,596.33

Analysis

1. Utilities for February 2014 - \$433.50

The tenant agreed that she owed this amount.

2. Loss of income for March 2014 - \$1,600.00

Section 45 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 is not earlier than one month after the date the landlord receives the notice, is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and is the day before the day in the month that rent is payable under the tenancy agreement.

Based on the sworn testimony of the both parties, I find that, on January 31, 2014, the tenant gave notice to end the tenancy effective February 28, 2014 which is prior to the end date of the fixed term but is before the day rent is due. By ending the tenancy prior to the end date of the fixed term, the tenant breached the tenancy agreement. The landlord is claiming a loss of income that resulted from this breach.

Section 7 of the *Residential Tenancy Act* states that a landlord who claims compensation for loss that results from the tenant's non –compliance with the *Act* or their tenancy agreement must do whatever is reasonable to minimize the loss.

In all cases, the landlord's claim is subject to the statutory duty to mitigate the loss by re-renting the premises at a reasonably economic rent. In this case, in order to minimize the loss, the landlord had to make efforts to re-rent the unit. However, the landlord testified that on February 01, 2014, he listed the rental unit for sale and found a buyer who took possession on March 24, 2014. Therefore I find that the rental unit was unavailable for rent during the month of March

Pursuant to *Residential Tenancy Policy Guideline #3*, placing the property on the market for sale will not constitute mitigation. Accordingly, I find that the landlord is not entitled to loss of income for the month of March.

3. Utilities for March 2014 - \$362.98

For the reasons mentioned above, I find that the tenant is also not responsible for the cost of utilities for March 2014.

4. Movie Rental - \$21.95

The tenant agreed that she owed this amount.

5. Travel Expenses - \$127.90

The landlord chooses to reside in a location that is at a distance from the rental unit. The tenant is not responsible for the cost of travel incurred by the landlord to carry out his business as a landlord and therefore I dismiss the landlord's claim for travel expenses.

6. Filing fee - \$50.00

The landlord has proven most of his case and therefore I award the landlord the filing fee of \$50.00

Overall the landlord has established a claim as follows:

1.	Utilities for February 2014	\$433.50
2.	Loss of income for March 2014	\$0.00
3.	Utilities for March 2014	\$0.00
4.	Movie rental	\$21.95
5.	Travel expenses (flight and gas)	\$0.00
6.	Filing fee	\$50.00
	Total	\$505.45

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of 505.45. 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 for **\$505.45**.

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: April 17, 2014

Residential Tenancy Branch

