



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing was convened to address a claim by the landlords for a monetary order and an order to retain the security deposit in partial satisfaction of the claim and a cross-application by the tenants for a monetary order. Despite having been served with the landlord's application for dispute resolution via registered mail on January 28 and their evidence on April 28, the tenants did not participate in the conference call hearing.

As the tenants did not appear at the hearing to advance their claim, the claim is dismissed without leave to reapply.

Issue to be Decided

Are the landlords entitled to a monetary order as claimed?

Background and Evidence

The landlords' undisputed evidence is as follows. The tenancy began in September 2013 and was set to run for a fixed term ending on March 31, 2014. Rent was set at \$3,500.00 per month and the tenants paid a \$1,750.00 security deposit. An addendum to the tenancy agreement set out a provision whereby the tenants agreed to pay liquidated damages in the amount of \$1,750.00 in the event of an early termination of the agreement.

At the end of January 2014, the landlords received from the tenants a notice dated January 21, 2014 in which they advised that they would be ending the tenancy effective February 1, 2014. The landlords immediately began advertising the rental unit and lowered the rent by \$500.00 in an effort to secure new tenants, but were unable to re-rent the unit for the balance of the fixed term.

The landlords seek to recover \$7,000.00 in lost rental income for the months of February and March 2014, \$1,750.00 in liquidated damages as the tenants ended the tenancy prematurely and \$100.00 which represents the filing fee paid to bring their application.

Analysis

I accept the undisputed testimony of the landlords and I find that the tenants ended the fixed term tenancy early, triggering the liquidated damages provisions. I find that the landlords are entitled to liquidated damages in the amount of \$1,750.00 and I award them that sum. I further find that the landlords acted quickly and reasonably to mitigate their losses but were unable to re-rent the unit and are entitled to recover from the tenants the \$7,000.00 in lost income for the months of February and March and I award them that sum. As the landlords have been wholly successful in their claim, I find that they are entitled to recover their \$100.00 filing fee.

The landlords have been awarded a total of \$8,850.00. I order the landlords to retain the \$1,750.00 security deposit in partial satisfaction of the claim and I grant them a monetary order under section 67 for the balance of \$7,100.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenants' claim is dismissed without leave to reapply. The landlords are granted a monetary order for \$7,100.00 and will retain the security deposit.

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: May 12, 2014

Residential Tenancy Branch

