



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent and to recover the RTB filing fee. At the start of the hearing, the landlord confirmed he no longer needs an order of possession because the tenants have moved out.

Both the landlord and one of the tenants attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

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

Background and Evidence

The tenancy agreement signed by the parties on August 5, 2013 indicates the tenancy started September 1, 2013 and was for a fixed term of one year. The tenants were obligated to pay rent of \$800.00 per month payable in advance on the first day of the month. The tenants also paid a security deposit of \$400.00.

The tenants moved out at the end of January 2014. The landlord claims a loss of rental income for February and March 2014, totalling \$1,600.00.

The landlord says the tenants did not give notice. He discovered the tenants had moved out when a neighbour called him on February 2, 2014. The landlord says he commenced advertising for new tenants about a week later. He advertised locally through word of mouth. His evidence is that Granisle is a small community so it is not helpful to use newspaper or internet advertising. The landlord found new tenants for April 1, 2014.

The tenant gave evidence that she told the landlord over the phone in early December that she intended to move because there was not enough heat. She did not provide a specific date for moving out because they needed to look for a new place. The tenant gave evidence that she called the landlord and left messages for him about 10 to 20 times at the end of December, to tell him they were going to move out at the end of January.

The tenant gave evidence that she found it unfair that the landlord did not want to deal with the heating issue. She said there was a propane furnace but they did not use that until the pellet stove broke. The pellet stove broke in December and the landlord replaced it two weeks later. However, the tenant says the new stove was smaller and lower BTU and barely kept the room warm.

The landlord's evidence is that he remembers getting a couple of messages from the tenant. He does not remember getting a message saying the tenants would move out at the end of January until about mid-January.

The landlord also gave evidence that the rental unit has an almost new gas furnace that is capable of heating the house. The pellet stove is not designed to heat the house.

Analysis

I find the landlord is entitled to his claim for lost rental income for the months of February and March 2014. Regardless of whether or not the tenants gave one month's notice that they were moving out, the tenants signed a one-year lease that had not expired.

The tenants' concern about inadequate heat could have been addressed by filing an application for dispute resolution with the RTB. The issue did not provide the tenants with a valid reason for ending a fixed-term tenancy before the end of the fixed term.

I find the landlord took appropriate steps to mitigate his losses by advertising promptly for new tenants. The landlord is entitled to \$1,600.00 for two months' rent and his \$50.00 RTB filing fee. The total amount due the landlord is \$1,650.00.

I order that the landlord retain the security deposit of \$400.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,250.00. 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 for \$1,250.00. The landlord is also entitled to 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: July 15, 2014

Residential Tenancy Branch

