



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, O, OPB

Introduction

This is an application for a monetary order for \$13,600.00 and recovery of the \$100.00 filing fee.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

Has the applicant established a monetary claim against the respondent, and if so in what amount?

Background and Evidence

The applicants testified that:

- The tenant signed a one-year lease with an end of tenancy date of February 17, 2015, and the monthly rent of \$1700.00.

- The tenant subsequently vacated the rental unit on June 12, 2014, well before the end of the lease.
- They have attempted to re-rent the unit, running ads on craigslist beginning shortly after the tenant vacated.
- To date they have been unable to re-rent the unit and therefore have lost the rental income for the months of July 2014, and August 2014.
- The tenant had also agreed to supply postdated cheques right to the end of the tenancy and has failed to do so.
- They are therefore requesting a monetary order for the total amount of rent that the tenant agreed to pay to the end of the one-year tenancy.
- The tenant only paid for 4 of the 12 months of the agreed tenancy, and therefore the tenant still owes eight months rent totaling \$13,600.00.

The tenant's representative testified that:

- The tenant did signed a one-year lease, however due to problems with the rental unit he decided he was unable to live in the unit for the full year and therefore in late March or early April 2014 he informed the landlord's agent that he would be vacating the rental unit.
- The landlord's agent informed him she would attempt to re-rent the unit, but never informed him that he would be held liable for lost rental revenue.
- He subsequently moved out of the rental unit on June 12, 2014.
- The tenant's representative stated she does not believe that the landlords are taking reasonable steps to re-rent the unit as this is a very desirable area and units are very easy to re-rent.
- She finds it very hard to believe that in the past two months they have not found a renter for this unit.
- She believes that if she advertised the unit she could find a renter in one day.
- She therefore believes that the tenant should not be held liable for any lost rental revenue whatsoever.

In response to the testimony by the tenant's representative the landlords testified that:

- They have been advertising the unit ever since the tenant vacated and although they have had two prospective tenants, neither of those people decided to rent the unit. They have even been willing to lower the rent to \$1500.00 per month but the parties were still not interested.
- They even have a realtor attempting to rent it on their behalf, and she too has been unable to rent the unit.
- They were never informed of any problems in the rental unit.

Analysis

It's my finding that the tenant and the landlord are both bound by the one-year tenancy agreement that they signed, and therefore the tenant did not have the right to unilaterally end the tenancy prior to the end of that one-year term.

It is also my finding that the landlords have taken reasonable steps to attempt to re-rent the unit, and although the tenant's representative believes the unit should have re-rented by now, she has provided only opinion evidence on the matter, and no actual evidence to show that the landlords are not taking reasonable steps to re-rent the unit.

It is my decision therefore that the tenant is liable for the lost rental revenue that has resulted from ending this tenancy before the end of the fixed term. I will therefore allow a portion of the landlords claim.

I allow the claim for lost rental revenue for the months of July 2014, and August 2014 for a total of \$3400.00.

I also allow the request for a portion of the filing fee. I allow \$50.00, because the overall amount of the claim I have allowed is less than the \$5000.00 amount at which the filing fee doubles from \$50.00 to \$100.00.

I will not however allow the landlords claim for possible lost rental revenue for the months of September 2014 through January 2015, at this time, because the landlord is required to attempt to mitigate his loss by attempted to re-rent the unit. Since at this time we do not know whether the unit will be re-rented for those months the claim for rental revenue for those months is premature.

Conclusion

I have issued a Monetary Order for \$3450.00.

I dismiss the claim for the remaining \$50.00 amount of the filing fee, without leave to reapply.

I dismissed with leave to reapply the claim for potential lost rental revenue for the months of September 2014 through January 2015.

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: August 25, 2014

Residential Tenancy Branch

