



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]

REVIEW HEARING DECISION

Dispute Codes OPR, MNR, FF

Introduction

This review hearing was conducted as a result of the tenant being successful in a Review Consideration Application. The landlord was originally successful in obtaining a monetary order, which is the subject of this hearing. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Should the original monetary order be confirmed, amended or set aside?

Background and Evidence

The landlord gave the following testimony

The tenancy began on or about October 1, 2013 and ended on November 27, 2013. The parties signed an agreement that the term of the tenancy was to be for one year. Rent in the amount of \$1150.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$575.00. The tenant failed to pay rent in the month(s) of October and November.

The landlord stated that they found the unit empty on November 27, 2013. The landlord stated that they received the keys, fobs and laundry card on December 30, 2013. The landlord stated that they made many attempts to rent the unit as soon as possible. The landlord stated that they used various digital mediums to advertise the unit as well as

trying to show it as often as possible. The landlord stated that due to the holiday season “traffic was quite slow” to show the suite.

The landlord stated that she explained the ramifications to the tenant if he wished to end the tenancy early. The landlord was able to rent the unit for February 1, 2014. The landlord is seeking the unpaid rent for the months of October and November and the loss of revenue for December and January.

The tenant gave the following testimony:

The tenant stated that he agrees that he should be held responsible for the unpaid rent for October and November but doesn't understand why he should have to pay for December and January. The tenant stated that he is new to the province and is unsure of the tenancy laws. The tenant stated that the landlords did receive one months' rent. The tenant stated the landlords withdrew \$1150.00 on December 2, 2013 by pre-authorized debit. The tenant stated that the landlord already has that amount along with the \$575.00 security deposit would only leave an outstanding balance of \$575.00, which he would agree to.

Analysis

Both parties submitted documentation for this hearing which along with their testimony was considered in making a decision.

The tenant submitted a document that reflects a payment was taken from his bank account on December 2, 2013. I am satisfied that payment was made. However, I am also satisfied that the landlord took all reasonable steps to mitigate their loss and tried to re-rent the unit as soon as possible. I find that the landlord is entitled to the unpaid rent for October and November and the loss of revenue for December and January at $\$1150.00 \times 4 \text{ months} = \4600.00 . I further apply the \$1150.00 payment from the tenant along with the \$575.00 security deposit pursuant to Section 72 of the Act in “offsetting costs” for a total of \$2875.00 in favour of the landlord.

The landlord is also entitled to the recovery of their original filing fee of \$50.00 + \$2875.00 = \$2925.00 total claim.

Based on the above I hereby set aside the monetary order from January 16, 2014 of \$4650.00 and award the landlord a new monetary order of \$2925.00. I grant the landlord an order under section 67 for the balance due of \$2925.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The original monetary order dated January 16, 2014 is set aside.

The landlord is granted a monetary order for \$2925.00. The landlord may 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: September 23, 2014

Residential Tenancy Branch

