



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served in person to the tenant by the landlord on June 20, 2014.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The landlord testified that this tenancy started originally with two tenants on April 01, 2012 for a fixed term tenancy of one year. The tenancy reverted to a month to month tenancy from April 01, 2013. The other tenant vacated the unit half way through the

tenancy and the tenancy continued with this tenant only. Rent for this unit was \$1,200.00 per month due on the 1st of each month. The security deposit has been returned to the tenant.

The landlord testified that he received an email from the tenant on May 08, 2014. This email indicated that the tenant was sorry for the late notice but would be vacating the unit on June 01, 2014. The landlord testified that upon receiving that email the landlord immediately started to advertise the unit for re-rental for June 01, 2014. An advert was placed on an internet site and five to six prospective tenants were interviewed for this unit. Each of these prospective tenants had to give one months' notice on their current units. The current tenant was selected and they were able to move into the unit on July 01, 2014.

The landlord testified that as the tenant did not give proper notice to end the tenancy the landlord lost rental income for June. The landlord seeks to recover the rent for June of \$1,200.00 from the tenant.

Analysis

I refer the parties to s. 45(1) of the *Act* which provides for the tenant's notice to end a tenancy on a periodic tenancy.

Tenant's notice

45 (1) *A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that*

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I find the tenants notice was by email which is not a recognised form of providing a Notice to End Tenancy in writing; the notice should have been revived by the landlord on April 30, 2014 in order to be effective by June 01, 2014. It is my decision that the landlord has attempted to mitigate the loss of rent for June by advertising the unit in a timely manner and therefore as the landlord suffered a loss of rent for June, 2014, the landlord has established a claim to recover the loss of rent from the tenant of \$1,200.00.

As the landlord's claim has merit I find the landlord is entitled to recover the filing fee of **\$50.00** from the tenant pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,250.00** pursuant to s. 67 and 72(1) of the *Act*. The Order must be served on the respondent. If the respondent fails to pay the Order, the Order is enforceable through the Provincial Court as an Order of that Court.

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: November 04, 2014

Residential Tenancy Branch

