Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR MNDC FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

a)   A monetary order pursuant to Sections 46 and 67; and

d)   An order to recover the filing fee pursuant to Section 72.

SERVICE:

Only the landlord attended and gave sworn evidence that he had served the Application for Dispute Resolution by registered mail. It was verified online that delivery was attempted on November 4, 2014, several notices were left but it was returned to the landlord on November 25, 2014 as it was unclaimed. I find that the tenant is deemed to be served with the Application according to sections 88 and 89 of the Act and Residential Policy Guideline 12-11.

Issue(s) to be Decided:

Is the landlord now entitled to a Monetary Order for rental arrears and loss, for damages and the filing fee? If so, to what amounts has he proved entitlement?

Background and Evidence:

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The landlord said he employed the tenant to work 65 hours a month at $10 an hour in lieu of rent for the suite which came with the job. The tenant was fired for cause but did not vacate until November 2014 although the landlord did obtain an Order of Possession at a previous hearing.

The tenant did not work from the end of May 2014 and vacated November 2014. The landlord claims as follows:

June to October 2014: 5x$650 = $3250

Rent for new worker because tenant over holding: July to October 2014: 4x$750= $3000
Storage of new tenant's furniture for four months: 4x$178.50 = $714
Extra moving costs for new barn worker (over holding necessitated two moves) = $90

Included with the evidence is the Notice to End Tenancy, a termination of employment letter, several notices of criminal offences and bylaw offences against the tenant and a letter from the new barn worker outlining her expenses.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis
Monetary Order
I find that there are rental arrears of $650 for June 2014.   Section 7 of the Act states:
(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Since the tenant did not vacate, I find the landlord had to pay rent of $750 a month from July to the end of October 2014 for the new barn worker as she was compelled to rent elsewhere due to this tenant over holding. Therefore, I find the landlord entitled to recover $650(June) for rental arrears + expenses of $750 a month for the new tenant's rent. I find this expense was necessitated by the tenant over holding. I find the landlord not entitled to claim compensation for both over holding rent for the suite and the new tenant's rent for the same period as this would be double compensation.

I find also the new worker was put to the expense of $714.50 for storage fees (4x$178.50) and an extra moving cost of $90 and the landlord had to compensate her for these expenses. I find the tenant's action in over holding caused these expenses so I find him entitled to recover these expenses.

Conclusion:
I find the landlord is entitled to a monetary order as calculated below and to recover filing fees of $100 paid for this application.

Calculation of Monetary Award:

Rental Arrears June 2014	650.00
Rent paid elsewhere due to over holding	3000.00

Storage fees and extra moving costs(714.50+90)	804.50
Filing fee	100.00
Total Monetary Order	4554.50

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: March 17, 2015

_____
Residential Tenancy Branch