



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing was convened to address a claim by the landlords for a monetary order and an order authorizing them to retain the security deposit. The landlords presented evidence that they served the tenant with the application for dispute resolution and notice of hearing via registered letter sent to his new address on April 22, 2015. The landlords also presented evidence that they sent the tenant 2 text messages advising him that the registered letter was available at the post office. The tenant failed to collect the registered letter. The tenant cannot avoid service by failing to collect his mail. Section 90(a) of the Act provides that the tenant is deemed to have been served with the documents 5 days after they were posted. The hearing proceeded in the tenant's absence.

After the hearing had concluded, I noted that the landlords had submitted an amendment to their monetary claim. This decision reflects my consideration of that amended application.

Issue to be Decided

Are the landlords entitled to a monetary order as claimed?

Background and Evidence

The landlords' undisputed evidence is as follows. The tenancy began on September 1, 2013 and was set for a fixed term of one year. The agreement was renewed on September 1, 2014 and was set to run for a fixed term ending on August 31, 2015. Rent was set at \$950.00 per month with a \$200.00 per month rent reduction in the months of May, June and July. The tenancy agreement provides that the tenant is responsible for utilities. The tenant paid a \$475.00 security deposit at the outset of the tenancy.

On March 8, 2015, the landlords received verbal notice from the tenant that he would be vacating the rental unit that month and he did in fact vacate on March 13, 2015. The landlords put him on notice that they would attempt to re-rent the unit, but would hold him accountable for rent for the entire fixed term and utilities until April 30 if the suite was not re-rented. On March 13, the tenant signed a statement indicating that he understood his liability.

The landlords testified that they advertised the unit on the internet, in a local newspaper and by posting signs at the unit, but were unable to re-rent the unit during the summer as it is located in a resort town noted for winter recreational activities.

The landlords attempted to cash the tenant's post-dated cheque for the month of April, but it was returned by the bank as payment was stopped. The landlords incurred a \$7.00 bank charge as a result of the stopped payment. The landlords' written documentation shows that they were able to successfully negotiate the tenant's post-dated rent cheque for the month of June.

The landlords seek to recover the following:

Utilities for March 2015	\$ 160.06
Utilities for April 2015	\$ 41.02
April loss of income	\$ 950.00
May loss of income	\$ 750.00
July loss of income	\$ 750.00
Returned cheque fee	\$ 7.00
Newspaper advertising costs (4 months)	\$ 84.00
Registered mail costs	\$ 26.33
Filing fee	\$ 50.00
Total:	\$2,818.41

Analysis

I accept the undisputed testimony of the landlords and I find that the tenant was obligated to continue paying for rent and utilities throughout the balance of the fixed term. I find that the tenant is liable for the landlords' loss of income, utilities for the months of March and April, the returned cheque fee, advertising costs and the cost of the filing fee paid to bring this application. I dismiss the claim for the cost of registered mail as under the Act, the only litigation related expense I am empowered to award is the cost of the filing fee. I award the landlords \$2,792.08. I order the landlords to retain the \$475.00 security deposit in partial satisfaction of the claim and I grant them a

monetary order under section 67 for \$2,317.08. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlords are awarded \$2,317.08 and will 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 24, 2015

Residential Tenancy Branch

