



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order. The hearing was conducted via teleconference and was attended by the landlord

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on October 21, 2016 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed. Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing the landlord confirmed the tenant vacated the rental unit on October 31, 2016 and that she no longer needs an order of possession. I amend the landlord's Application to exclude the matter of possession.

The landlord also requested to withdraw the portion of her Application seeking compensation for damage to the rental unit at this time. I accept this request for withdrawal and note the landlord remains at liberty to file a new Application seeking compensation for damage to the property at a later time within any restrictions outlined in the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; and lost revenue; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*

Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on September 10, 2016 for a 6 month fixed term tenancy beginning on October 1, 2016 for the monthly rent of \$2,400.00 due on the 1st of each month with a security deposit of \$1,200.00 paid.

The landlord submitted the tenant only paid \$500.00 towards rent for the month of October 2016. She also submitted she issued a 10 Day Notice to End Tenancy for Unpaid Rent on October 9, 2016 with an effective vacancy date of October 19, 2016 and the tenant vacated on October 31, 2016. The landlord submitted that she has re-rented the unit effective December 15, 2016.

The landlord seeks the balance of rent for the month of October 2016 in the amount of \$1,900.00; lost revenue for the month of November 2016 in the amount of \$2,400.00; and ½ month of December 2016 in the amount of \$1,200.00.

Analysis

Based on the landlord's undisputed evidence and testimony I find the tenant failed to pay rent in the full amount due on October 1, 2016 and that the landlord issued a notice to end tenancy. As a result of that notice the tenancy ended on the effective date of the Notice.

However, as the tenant had agreed to the fixed term tenancy and it was his actions that led the landlord to issue the Notice to End Tenancy, I find the tenant is responsible for the payment of rent until the end of the fixed term, subject to the landlord's obligation to mitigate her losses.

I accept that the landlord took reasonable steps to re-rent the unit resulting in securing new tenants for the middle of December 2016. As such, I find the landlord is entitled to the compensation as claimed above.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$5,600.00** comprised of \$1,900.00 rent owed; \$3600.00 lost revenue and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$1,200.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$4,400.00**. This order must be served on the tenant. If the tenant fails to comply with

this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced 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: December 14, 2016

Residential Tenancy Branch