



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNDC FF O

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide his evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The landlord testified that the Notice of Hearing, Application and documentary evidence were served on the tenant by registered mail on December 30, 2016 at the address previously provided by the tenant. A registered mail tracking number was provided in evidence which has been included on the cover page of this decision for ease of reference. According to the online registered mail tracking website, the registered mail package was signed for and accepted on January 3, 2017. Based on the above, I find that the tenant was served on January 3, 2017, the date the registered mail package was signed for and accepted. As I am satisfied the tenant was duly served and did not attend the hearing, the hearing continued without the tenant present.

Issue to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on December 15, 2016 and was scheduled to end on December 15, 2017 and required the tenant to provide vacant possession of the rental unit back to the landlord at the end of the tenancy. The tenant provided a cheque for the \$600.00 security deposit but the cheque was returned as insufficient funds and the tenant did not move into the rental unit. As a result, the landlord immediately began to seek a new tenant and was finally able to re-rent the rental unit effective January 1, 2017.

The landlord's monetary claim of \$600.00 which reduced to \$525.00 as the landlord clarified during the hearing that he was seeking the loss of rent between December 15, 2016 and December 31, 2016. The landlord testified that the tenant requested the rental unit earlier than when the landlord's previous tenant was required to move out so the landlord negotiated with his previous tenant to move out early to accommodate the tenant and then the tenant bounced the security deposit cheque and never moved in. The landlord is also seeking the recovery of the cost of the filing fee.

Analysis

Based on the undisputed documentary evidence and undisputed testimony of the landlord, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, Application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the tenant. As a result, and taking into account that I find the landlord's evidence and testimony support their full monetary claim, I find the landlord's application is fully successful in the amount of **\$525.00**.

In reaching this finding I have considered sections 26 and 45(2) of the *Act*. Section 45(2) of the *Act* requires that tenants not end a fixed term tenancy like the tenant did in the matter before me which was before the end of the fixed term and without written permission from the landlord to end the fixed term tenancy early. Section 26 of the *Act* requires that a tenant pay rent on the date in which it is due in accordance with the tenancy agreement. Based on the undisputed evidence before me, I find the tenant breached section 26 and 45(2) of the *Act* by breaching the fixed term tenancy by failing to pay rent for December 15-31, 2016 inclusive.

I find the landlord complied with section 7 of the *Act* by minimizing his loss by immediately attempting to re-rent the rental unit and securing a new tenant effective January 1, 2017.

As the landlord's claim is successful, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. Based on the above, I find the landlord has established a total monetary claim of **\$625.00** comprised of \$525.00 for loss of December 15-31, 2016 rent plus the recovery of the cost of the \$100.00 filing fee pursuant to section 72 of the *Act*.

Conclusion

The landlord's application is fully successful.

The tenant has breached section 26 and 45(2) of the *Act*.

The landlord has established a total monetary claim of \$625.00 and has been granted a monetary order pursuant to section 67 for that amount owing by the tenant to the landlord. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: June 26, 2017

Residential Tenancy Branch