



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR

Introduction

This hearing dealt with the landlord's application pursuant to the Residential Tenancy Act (the "Act") for a monetary order pursuant to section 67 of the Act.

Both parties attended the hearing and were given a full opportunity to be heard, present affirmed testimony and submit evidence.

As both parties were in attendance I confirmed there were no issues with service. The tenant confirmed that they had been served with the landlord's application for dispute resolution, amendment to the application and evidentiary materials. The tenant testified that she had not served any evidence of her own. Pursuant to sections 88 and 89 of the Act, I find that the tenant was duly served with the landlord's application, amendment to the application and evidence.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Background and Evidence

The parties agreed on the following facts. This fixed term tenancy began in July, 2016 and was scheduled to end on June 30, 2017. The tenant gave notice to the landlord on January 25, 2017 of their intention to vacate the rental unit on February 28, 2017. The monthly rent was \$3,500.00. A security deposit of \$1,750.00 was paid by the tenant at the start of the tenancy and the tenant gave written authorization that the landlord may retain that amount to offset rental arrears.

The landlord testified that upon receiving notice of the tenant's intention to break the lease they listed the rental unit on two online sites as well as their own website on January 27, 2017. The landlord estimated that they received 17 inquiries for the rental unit, did approximately 12 showings and were able to find a new tenant who contracted on May 3, 2017 for a June 1, 2017 lease start date. The landlord said that the new tenancy was set at a lower monthly rent of \$3,300.00 as they were unable to contract with anyone at the rent of \$3,500.00. The landlord said that because the rental unit is a higher priced suite it does not normally receive a large number of applicants even in a "hot" rental market.

The landlord testified she is seeking a monetary order of \$8,750.00 the equivalent of the monthly rent of \$3,500.00 for the 3 months that the rental unit was vacant from March 1, 2017 to May 31, 2017 less the security deposit of \$1,750.00.

Analysis

Section 7 of the *Act* explains, "If a tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying tenant must compensate the other for damage or loss that results... A landlord who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss."

This issue is expanded upon in *Residential Tenancy Policy Guideline #5* which explains that, "Where the tenant gives written notice that complies with the Legislation but specifies a time that is earlier than that permitted by the tenancy agreement, the landlord is not required to rent the rental unit or site for the earlier date. The landlord must make reasonable efforts to find a new tenant to move in on the date following the date that the notice takes legal effect." In this case, written notice was provided to the landlord on January 25, 2017. The landlord testified that upon receipt of this notice she immediately posted an online ad listing the apartment for rent on January 27, 2017. The landlord testified that the online listing was refreshed every few days so that it would show up in searches and that they were able to conduct showings. I find that the landlord has made *reasonable efforts to find a new tenant to move in on the date following the date that the notice takes legal effect.*

Section 67 of the *Act* states, if damage or loss results from a party not complying with this Act, the regulations or a *tenancy agreement*, the director may determine the amount of, and order that party to pay, compensation to the other party. I find that a violation of the tenancy agreement occurred by the tenant when the tenant vacated the rental unit

earlier than the specified date. The landlord had to make efforts to rectify this violation and that landlord is entitled to compensation for their loss. Accordingly, I issue a monetary award in the landlord's favor in the amount of \$8,750.00

Conclusion

I issue a monetary Order of \$8,750.00 in favour of the landlord.

The landlord is provided with this Monetary Order and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: August 2, 2017

Residential Tenancy Branch