



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PRIMA PROPERTIES (118) LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL MNRL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- A monetary award for damages and loss pursuant to section 67; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

Both parties were represented at the hearing and provided a full opportunity to make affirmed submissions, present evidence, give testimony and call witnesses. The corporate landlord was represented by its agent.

As both parties were present service of documents was confirmed. Both parties confirmed they were in receipt of the other's materials. Based on the evidence I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover their filing fee from the tenant?

Background and Evidence

This fixed-term tenancy began in March 2018 and was scheduled to end on April 30, 2019. The monthly rent was \$4,850.00 payable by the first of each month. A copy of the tenancy agreement was submitted into evidence. A security deposit of \$2,425.00 was collected at the start of the tenancy and has been returned.

The tenant gave written notice to end this tenancy on January 5, 2019 providing an end of tenancy date of January 31, 2019. The tenant paid rent through to the end of January 2019. The landlord was able to find a new occupant for the rental unit starting March 1, 2019.

The tenant submits that the landlord did not take reasonable efforts to mitigate their losses by advertising the suite in a reasonable period of time.

Analysis

A tenant must pay rent when it is due, whether or not the landlord complies with the *Act*, regulations or tenancy agreement pursuant to section 26(1) of the *Act*. Section 45 of the *Act* explains that a tenant may end a fixed-term tenancy by giving the landlord notice on a date not earlier than one month after the date the landlord receives the notice.

I find that, as the tenant gave notice of their intention to end the tenancy on January 5, 2019 the effective date of the end of tenancy was February 28, 2019. I find that the written tenancy agreement provides that monthly rent is \$4,850.00. I do not find the tenant's submission that the rent amount is less with additional amounts paid for parking spots to be particularly persuasive. I find that the tenant was obligated to pay the monthly rent in the amount of \$4,850.00 on February 1, 2019. I accept the evidence of the parties that the tenant failed to pay the full rent on that date.

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 who failed to pay the full rent owing on February 1, 2019. Therefore, the landlord is entitled to a monetary award in the amount of \$4,850.00, the equivalent of one month's rent.

The parties focused much of their testimony on whether the efforts made by the landlord to mitigate their losses were appropriate. Under the circumstances I find that the tenant was responsible for paying rent for February 2019 and the landlord made reasonable efforts by advertising the suite in January 2019. I find that the landlord was not obligated to take all possible steps but simply reasonable steps under the circumstances. I find that the landlord took reasonable steps by advertising the suite

beginning in January when the tenant remained responsible for paying the rent for February 2019.

As the landlord's application was successful the landlord is entitled to recover their \$100.00 filing fee from the tenant.

Conclusion

I issue a monetary award in the amount of \$4,950.00 in the landlord's favour as against the tenant.

The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with the Order, the 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: June 20, 2019

Residential Tenancy Branch