



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, (FF)

Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid rent and a loss of rental income.

The Landlord said he served the Tenant with a copy of the Application and Notice of Hearing in person at her place of work on April 7, 2009. I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in her absence.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Is the Landlord entitled to compensation for loss of rental income and if so, how much?

Background and Evidence

This month to month tenancy started on or about July 1, 2006 and ended on July 13, 2007. Rent was \$795.00 per month. The Landlord said that the Tenant's cheques for April and May 2007 rent were returned for non-sufficient funds and she did not pay rent for June and July 2007. Consequently on July 3, 2007, the Landlord gave the Tenant a 10 Day Notice to End Tenancy for Unpaid Rent. The Landlord said he advertised the rental unit in the newspaper for immediate availability at the same rate of rent but was unable to re-rent it until September 2007.

Analysis

Based on the documentary and oral evidence of the Landlord, I find that there are arrears of rent for April, May, June and July 2007.

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a Landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a Landlord is entitled is an amount sufficient to compensate the Landlord for any loss of rent up to the earliest time the Tenant could have legally ended the tenancy. Under section 45 of the Act, a Tenant of a month-to-month tenancy must give one clear



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

months notice. Given that the date of the Landlord's notice was July 3, 2007, the earliest the Tenant could have ended the tenancy would have been August 31, 2007. Consequently, I find that the Landlord is also entitled to recover loss of rental income for August, 2007.

I find that the Landlord has made out a claim for \$3,975.00 and is also entitled to recover the \$50.00 filing fee for this proceeding.

Conclusion

A monetary order in the amount of **\$4,025.00** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: July 07, 2009.

Dispute Resolution Officer