Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNDC, FF

Introduction

This is an application for a monetary order for $20,341.75, and a request for recovery of the $100.00 filing fee.

A substantial amount of documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant testified that the respondent was served with notice of the hearing by Registered mail that was mailed on July 9, 2013; however the respondent did not join the conference call that was set up for the hearing.

Documents sent by registered mail are deemed served five days after mailing and therefore it's my finding that the respondent has been properly served with notice of today's hearing. I therefore proceeded with the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

Is the applicant entitled to a monetary order and if so for what amount?

Background and Evidence

The applicants testified that:

- The tenant signed a fixed term tenancy agreement with an end of tenancy date of June 30, 2013, and a monthly rent of $4500.00.
- The tenant subsequently vacated the rental unit in December of 2013 in breach of the fixed term agreement.
- They immediately attempted to re-rent the unit and have been attempting to do so ever since, however this is a high-end property and is very difficult to rent.
- They employed the services a rental agency that specializes in high-end properties, and they even ran some ads themselves in Calgary and Vancouver to try and expand the range of their advertising.
- They were awarded lost rental revenue for the months of January 2013, and February 2013 in a previous hearing, however they have now lost the rental revenue through the months of March 2013 to the end of the fixed term of June 2013.
- They have also had extensive utility costs even though they have kept utility usage to a minimum to try and save costs. They would not have had these utility costs had the tenant stayed in the rental unit.

They are therefore requesting a reduced monetary order as follows:

March 2013 lost rental revenue	$4500.00
April 2013 lost rental revenue	$4500.00
May 2013 lost rental revenue	$4500.00
June 2013 lost rental revenue	$4500.00
Gas utility usage	$164.63
Electrical utility usage	$2121.65
Filing fee	$100.00
Total	$20,386.28

Analysis

It is my finding that the applicants have established the full reduced amount claimed.

The respondent did not attend the hearing, however he sent written arguments in which he claims that the applicants did not take reasonable steps to re-rent the unit, however I

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have reviewed the information provided by the parties and it is my finding that the landlords did take reasonable steps to attempt to re-rent this unit.

The respondent also argued that because there was a clause in the tenancy agreement that states that the tenants will move on three months' notice if the rental unit sells; it's very difficult to rent this property. I do not accept this argument, as the same clause was in the tenancy agreement when the respondent rented the unit, and since the landlords are actively attempting to sell the unit as well, it would be unreasonable to require them to remove that clause from the tenancy agreement.

The respondent also questioned the electrical utility Bill, however I have reviewed the electrical utility invoices and I find that they are accurate. I also accept the landlord's testimony that they attempted to keep the utilities at a minimum during this period.

Conclusion

I have allowed the landlords full reduced claim of $20,386.28 and I've issued a monetary order in that amount.

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: October 07, 2013

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Residential Tenancy Branch