

# MARK WEISLEDER

Real Estate Lawyer, Author, Speaker

## Check condition of your rental investment

Owning a rental property is not just about collecting the rent on time. It is also about making sure that your property is being properly maintained. If you are not careful, you can face expensive repair bills.

Here's why:

Mostafa Said owned a home at 11804 Stephen St. in Maple Ridge, British Columbia in 2005. He planned to take his family on a trip to his native Egypt for a year and hired Meadow Ridge Classic Realty to be his property manager to find a tenant and manage the property while he was away. Meadow Ridge found a tenant, Sherry Fontaine, who eventually trashed the place during her one year tenancy. When Said returned, the place was in a terrible condition and he sued Meadow Ridge for his damages.

Said told the judge that since he could not afford a lawyer, he sued in Small Claims Court, where he claimed the maximum of \$25,000 as his damages.

The management contract said that Meadow Ridge would only be responsible for "gross negligence". In a decision dated June 16, 2014, Provincial Court Judge T. S. Woods in the BC Provincial Small Claims Court awarded Said the maximum amount permitted in Small Claims Court, being \$25,000.

Judge Woods found that as a result of the failure of the property manager to properly qualify the tenant, recognize red flags and not inspect the property on a consistent basis, they were in fact grossly negligent in their conduct. As an example, the judge pointed out that had the property manager just googled the name of the tenant, they would have discovered a story about Sherry Fontaine in 2004, indicating that she had a criminal record, prior drug use and that her children were taken away from her by authorities in BC after her child was mauled to death by a dog in 2004. In addition, the application form of the tenant was incomplete, with no information about her employers, banking information or credit cards. No questions were asked as to how she could afford the Said home rental of \$1,495 when her prior rental was only \$700.

The property manager also took no pictures at the beginning of the tenancy to prove what condition the property was in at that time and despite the fact that the first rent cheque bounced, no additional measures were taken to watch the property more carefully. Instead, the tenant, two other adults and three children, described by the judge as "her entourage", were

permitted into the property. In addition, Sherry rented out rooms to transients during her tenancy, all without permission, and placed locks on some of the doors to create additional units in the home.

Under the law in Ontario, a landlord is permitted to access the rental unit by giving 24 hours' notice for repairs, to show the property to potential buyers and to view the state of repair. This means that a landlord can get in to make sure that the tenant is properly maintaining the home. This does not mean that the landlord can come every day or once a week, as this could be interpreted as harassment. However, once a month or once every two months would be considered permissible.

When you hire a property manager, ask how often they will attend to inspect your property as part of their management duties. Also ask what checks they do to properly qualify any potential tenants. Remember to google the tenant as well to see if their social media information is consistent with their tenancy application. Also make sure you document the condition of the unit when the tenant moves in so you can prove any damages that may occur during the tenancy.

By doing careful screening in advance and conducting regular visits to your property, you will avoid any unpleasant surprises when your tenant leaves.

Mark Weisleder  
62 Hillmount Ave. Toronto, Ontario, M6B 1X4  
(416) 702-2499  
170 Wilkinson Rd., Brampton, Ontario, L6T 4Z5  
(905) 454-9606  
[mark@markweisleder.com](mailto:mark@markweisleder.com)  
<http://www.markweisleder.com>