

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR MNR MNSD FF

Introduction

This matter dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent. The landlord has also applied to retain all or part of the security deposit to satisfy any monetary orders that may be issued.

The tenant and the landlord appeared at the hearing which was held via teleconference, and were afforded the opportunity to present evidence.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession?
- Is the landlord entitled to a monetary order, and if so in what amount?

Background and Evidence

The landlord has provided a copy of a 10 day notice to end tenancy for unpaid rent, issued to the tenant on August 26, 2008. As of the date of this hearing the tenant still resides in the rental unit and has not filed to dispute the notice.

The tenant and the landlord agreed, at the hearing, that the tenant would vacate the rental unit no later than November 14, 2008, and I will issue an order of possession for that date.

In regards to the unpaid rent, the landlord has claimed an amount of \$4100.00. The monthly rent payable is \$650.00. At the hearing, the landlord was unable to give a

breakdown of how the figure of \$4100.00 was arrived at. He stated that the tenant had paid some rent for some months, but that he did not have any records. The tenant agreed that some rent was owing, but disputes the amount of \$4100.00

Analysis

I am in agreement that the landlord is owed some amount of rent, but I am unable to issue a monetary order when both parties do not agree on the amount, and the landlord is unable to justify the claimed amount. The burden of proof lies with the applicant to substantiate the amount of unpaid rent claimed, but the landlord was unable to meet that burden of proof.

Conclusion

I dismiss the landlord's application, with leave to re-apply for a monetary order for unpaid rent.

I grant the landlord a monetary order for \$50.00 and order that the landlord may retain the amount of \$50.00 from the security deposit.

I issue an order of possession that the tenant must vacate the rental unit, no later than 1:00 pm, on November 14, 2008.

Dated: November 05, 2008