

Dispute Resolution Services

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

Decision

Dispute Codes: MND MNR MNSD OPR FF

Introduction

This matter dealt with an application by the landlord for an order of possession for unpaid rent and a monetary order for unpaid rent and an unpaid security deposit. The landlord also seeks to recover the filing fee for the cost of this application.

Both the landlord and tenant appeared at the hearing and were afforded a full opportunity to present evidence. I also advised both parties that I would consider their oral testimony as well as any written documentation that had been submitted up to the date of the hearing.

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 agreed to facts are as follows:

- the tenancy commenced in March 2007
- the current monthly rent is \$800.00
- the tenant paid only \$600.00 in rent for the month of November
- the landlord served the tenant a 10 Day Notice to End Tenancy via registered mail on November 3, 2008, and the tenant acknowledges receipt of the Notice
- the effective date of the Notice is November 13, 2008 and the tenant has not filed an application to dispute the Notice

The evidence of the tenant is that she withheld the \$200.00 from the November rent due to deficiencies in the rental unit that were significant. The tenant at the hearing indicated that she was in the process of moving out and would be out in a few days.

The landlord at the hearing has requested an order of possession. After discussion between the landlord and the tenant, an agreement was reached that the tenant would be moved out no later than December 15, 2008.

Analysis

The tenant has not disputed that she withheld \$200.00 from the rent payable for November 2008. There is no legal basis for the tenant to withhold the rent, and any deficiencies which may result in a rent reduction order must be obtained by the tenant filing an application for dispute resolution. I find that the tenant is liable for the \$200.00 of outstanding rent, as well as for the \$50.00 filing fee for this application.

The landlord has requested that he also be paid the security deposit which has never been paid. I find that as the tenancy will be ending, that it would not be appropriate to make such an order.

Conclusion

I grant the landlord an order of possession to be effective on December 15, 2008. The order must be served upon the tenant. The order may be filed with and enforced as an order of the Supreme Court of British Columbia.

I grant the landlord a monetary order of \$250.00. The order may be filed with and enforced as an order of the Provincial Court of British Columbia.

Dated: December 3, 2008