



## **Dispute Resolution Services**

Residential Tenancy Branch  
Ministry of Housing and Social Development

### **Decision**

#### **Dispute Codes:**

MNR

OPR

CNR

FF

#### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on a Ten-Day Notice to End Tenancy for Unpaid Rent dated August 1, 2009. The landlord was also seeking a monetary order for rental arrears in the amount of \$8,000.00. This hearing also dealt with an application by the tenant to cancel the Ten-Day Notice to End Tenancy for Unpaid Rent issued on August 1, 2009.

Both parties appeared and each gave testimony.

#### **Issue(s) to be Decided**

The landlord is seeking an Order of Possession. The landlord is also seeking a monetary order. The issues to be determined for the landlord's application, based on the testimony and the evidence are:

Whether or not the landlord is entitled to an Order of Possession based on the Ten-Day Notice

Whether or not the landlord is entitled to monetary compensation for rental arrears owed and unpaid rent

The issues to be determined for the tenant's application, based on the testimony and the evidence are:

Whether or not the Ten-Day Notice to End Tenancy for Unpaid Rent dated August 1, 2009 should be cancelled.

The burden of proof is on the landlord to establish that the Ten-Day Notice or the One-Month Notice was justified and to verify that the amounts being claimed are genuinely owed.

The burden of proof is on the tenant to prove that the Ten-Day Notice to End Tenancy were not supported under the Act and should be cancelled on that basis

### **Background and Evidence**

The tenancy began 2005 and no deposit was paid. The rent was set at \$800.00. The witness testified that, while a purchase agreement was discussed, no such agreement was made nor signed by the parties.

The landlord testified that tenant did not pay rent owed for ten months and that a Notice was finally served. The landlord acknowledged that there were repair issues with the unit but stated that the tenant had agreed to have her father do the repairs. In regards to why the landlord did not ensure that the repairs were done, in compliance with section 32 of the Act, the landlord testified that it was difficult to arrange. In regards to why the landlord waited for ten months to pursue the rent owed, the landlord agreed that he was remiss in not acting sooner, but did not provide a detailed explanation.

The tenant testified that the landlord continuously failed to complete repairs to the unit and the tenant enlisted the help of her father to do some of the work. However, after repeated efforts to have the other problems attended to by the landlord, the tenant finally resorted to withholding the rent in the hope that this

would have some impact . The tenant acknowledged that she did not follow the proper procedure to dispute the landlord's inaction.

### **Analysis**

A mediated discussion ensued and the parties agreed to end the tenancy by consent on October 1, 2009. The parties agreed that the landlord was entitled to compensation in the amount of \$4,000.00 to be paid by the tenant.

### **Conclusion**

I hereby issue a monetary order granted in favour of the Landlord under section 67 for \$4,000.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

I hereby issue an Order of Possession in favour of the landlord effective Thursday, October 1, 2009 at 1:00 p.m. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

The remainder of both the landlord's and tenant's applications are dismissed in their entirety without leave to reapply.

September 2009

Date of Decision

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Dispute Resolution Officer