



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This matter dealt with an application by the landlord for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent and to recover the filing fee for this proceeding. At the outset of the hearing the landlord confirmed that the tenant has moved out and as a result he abandoned his application for an Order of Possession.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were given in person to the tenant on September 17, 2009. The tenant confirmed she had received them.

Both parties appeared, gave their testimony, were provided the opportunity to present evidence, make submissions and to cross-examine the other party. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Is the landlord entitled to recover filing fees from the tenant for the cost of the application?

### Background and Evidence

This tenancy started on June 01, 2007. Rent for this trailer was \$715.00 per month and was due on the 1<sup>st</sup> of each month. The landlord owns the trailer and the trailer park. The tenant paid a security deposit of \$347.00 on May 29, 2007.

The landlord served the tenant with a One Month Notice to End Tenancy, however the landlord did not give a reason on this notice for the end of the tenancy other than the trailer was being removed due to extensive mould and excessive rotting throughout the trailer which is too costly to repair. The tenant did not dispute this notice and moved from the trailer on August 31, 2009.

The landlord served the tenant with a 10 Day Notice for unpaid rent on September 03, 2009 after the tenant had moved out. The landlord claims the tenant owes rent for July and August, 2009 of \$715.00 for each month. The tenant does not dispute this. The landlord states that the trailer was beyond repair and he decided to tow it to another section of the park. Some of the tenants' belongings are still in the trailer and the landlord seeks additional rent due to this for September, 2009.

The tenant states that a previous hearing was held in May, 2009 concerning her application for the landlord to do repairs to the trailer and seeking a rent reduction for the repairs. At that hearing the landlord agreed to pay the tenant \$1,000.00 compensation and also agreed that the tenant would not be responsible for rent payments for the first two weeks in June, 2009. It was agreed that the tenant would pay the landlord rent for June on June 15, 2009 in the amount of \$350.00.

At this previous hearing the landlord was ordered to do the repairs on or before June 15, 2009. The tenant was also given leave to reapply for a rent reduction to continue if the repairs to the trailer were not completed by June 15, 2009. The tenant did not reapply for Dispute Resolution at this time but has applied since and a hearing will be held in the New Year for her application.

The tenant states that thought she did not have to pay the rent if the repairs were not completed. The tenant also states she has had to leave some of her belongings in the trailer due to them being infected with mould because of the condition of the trailer.

## Analysis

I find the landlord did not serve the tenant with a correct notice to end the tenancy. The landlord served the tenant with a One Month Notice for cause, not the Two Month Notice for landlords' use of the property; however the tenant did not dispute the one month notice that was issued and moved from the trailer on August 31, 2009.

The *Residential Tenancy Act* section 26 States that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulation or tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent. At the previous hearing it was agreed that the tenant could pay half a months rent for June, 2009 payable on June 15, 2009 and then must reapply for a further rent reduction if the repairs where not completed. I find the tenant withheld her rent for July and August to the amount of \$1,430.00 without an Order to do so and therefore owes this amount to the landlord. I find the tenant is not reasonable for any rent after this date because she had to abandon some of her belongings in the trailer. The landlord has stated that the trailer will not be re-rented due to its condition and therefore it would be unfair for the landlord to seek a loss of rental income from the tenant for September, 2009.

The landlord has stated that he will deem the tenants belongings left in the trailer as abandoned and will carry out an inventory of the belongings and store them for the time specified in the Residential Tenancy Regulations.



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The landlord is also entitled to recover the \$50.00 filing fee from the tenant for his application.

## Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,480.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: November 04, 2009.

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Dispute Resolution Officer