



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was initiated by way of a Direct Request Proceeding but was reconvened as a participatory hearing by the Dispute Resolution Officer considering the Direct Request Proceeding.

The reconvened hearing was held to address the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Landlord stated that he personally served copies of the Application for Dispute Resolution and Notice of Hearing to the Tenant on October 16, 2009.

These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord declared that this tenancy had been the subject of a direct request proceeding on November 18, 2009 in relation to Residential Tenancy Branch file 745517. He stated that he was awarded an Order of Possession on that date in relation to a Notice to End Tenancy that he served after the Notice to End Tenancy that is the subject of this proceeding.

The Landlord stated that the Dispute Resolution Officer at the direct request proceeding on November 18, 2009 also determined that the Tenant owed \$110.00 in rent from October of 2009 and he awarded the Landlord compensation for the unpaid rent.

The Landlord stated that the Dispute Resolution Officer at the direct request proceeding on November 18, 2009 gave the Landlord authority to retain the Tenant's security deposit.

Analysis

As the Landlord has already been awarded an Order of Possession, I find that I do not need to consider the Landlord's application for an Order of Possession for the Notice to End Tenancy that is the subject of this proceeding.

As this Application for Dispute Resolution related to compensation for unpaid rent from October of 2009 and a decision on that matter has been determined by another Dispute Resolution Officer, I find that I must dismiss the Landlord's application for compensation for unpaid rent from October of 2009, as the matter is *res judicata*.

As this Application for Dispute Resolution related to a request to retain the security deposit and a decision on that matter has been determined by another Dispute Resolution Officer, I find that I must dismiss the Landlord's application to retain the security deposit for compensation for unpaid rent from October of 2009, as the matter is *res judicata*.

Conclusion

As this matter has been determined at another dispute resolution proceeding and the Tenant has been ordered to compensate the Landlord for the cost of filing that Application for Dispute Resolution, I decline to award the Landlord compensation for this Application for Dispute Resolution. I find that it would be unfair to require the Tenant to pay for the cost of filing both Applications for Dispute Resolution, when the matter could have been resolved without a second hearing.

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 24, 2009.
