

DECISION AND REASONS

Dispute Codes:

OPR, CNR, MNR, MNSD, RR, FF

Introduction.

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy and for reduced rent.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The tenant moved out on November 01, 2009 and therefore the landlord's application for an order of possession and the tenant's application to cancel the notice to end tenancy were moot. Therefore, this hearing only dealt with the landlord's monetary claim for unpaid rent and the filing fee and the tenant's application for reduced rent.

Issues to be decided

Is the landlord entitled to a monetary order for unpaid rent and the filing fee? Is the tenant entitled to a reduction in rent for services that were promised and not provided?

Background and Evidence

The tenancy started on January 01, 2008. Rent was \$1,700.00 due on the first day of each month. The landlord stated that the tenant was consistently late on rent and failed to pay rent for October 2009. On October 03, 2009, the landlord served the tenant with a ten day notice to end tenancy and filed for dispute resolution. The tenant filed an application to cancel the notice and continued to live in the rental unit without paying rent. At the time of the hearing the tenant agreed that she owed the landlord \$1,700.00 for rent for October.

The landlord stated that on November 08, 2009, he visited the rental unit on an unrelated matter and found that it was vacant. The landlord has applied for loss of income for November as the tenant moved out without informing him and at the time of the hearing, had not handed over the keys to the rental unit.

The tenant stated that sometime in October 2008, she found mould in the bathroom and advised the landlord. She stated that despite several verbal complaints the landlord did not look into the matter. The landlord argued that the tenant was negligent in cleaning the bathroom resulting in the presence of mould. The tenant stated that she kept the home clean and denied that the mould had anything to do with her housekeeping abilities. She stated that the roof needed repair and the landlord was negligent in maintaining the roof.

The tenant also complained that the electric fireplace provided insufficient heating and that the baseboards were inadequate for the size of the home. She stated that she advised the landlord several times and he did not take any action.

The landlord stated that the home is approximately 20 years old and was fully renovated in 2003. He filed a copy of a letter from an appraisal company that evaluated the home for the purpose of financing. The value of the home is appraised at \$450, 000 and the landlord stated that it is a custom home that was built to code and has adequate heating. He stated that the electric fireplace is decorative and not designed to be a source of heat.

The tenant is claiming a reduction in rent for the presence of mould and the inadequate heating. The tenant filed photographs which show some black spots on a wall and a letter from a witness to corroborate the presence of mould and inadequate heating. The tenant did not specify an amount by which she wanted to reduce the rent.

The landlord is making a claim for rent for October and November (\$3,400.00) and for the filing fee (\$50.00).

Analysis

Based on the sworn testimony of both parties, I find that the tenant owes rent for October in the amount of \$1,700.00. The tenant moved out on November 01, but did not inform the landlord nor did she return the keys to the landlord as of the day of the hearing (November 09, 2009). Therefore the landlord has suffered a loss of income for November and I will award him rent for the first half of November. If the landlord is

unable to find a tenant for the latter half of November, he may make an application for loss of income.

I find that the tenant did not provide sufficient evidence or reason to be awarded a rent reduction. Therefore the tenant's claim for a reduced rent is dismissed.

The landlord has proven his case and is entitled to recover the filing fee. Overall the landlord has established 2,550 for rent and \$50.00 for the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$2,600.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$2,600.00**

Dated November 09, 2009.
