



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPB, OPR

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and their witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, and a request for a monetary order for \$3043.00.

Background and Evidence

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issue, to be dealt with together.

I therefore will deal with the request for an Order of Possession and outstanding rent and I dismiss the remaining claims with liberty to re-apply.

The applicant testified that:

- The tenant failed to pay outstanding rent and as a result was issued a Notice to End Tenancy on December 30, 2009.
- As of today's date the tenant has failed to pay any of that outstanding rent.

The applicants are therefore requesting an Order of Possession for us it is possible in a monetary order as follows:

November 18 – 28, 2009 rent outstanding	\$164.00
Pet deposit outstanding	\$175.00
November 29- December 26, 2009 rent outstanding	\$784.00
December 27 - January 9, 2009 rent outstanding	\$345.00
Filing fee	\$50.00
Total	\$1693.00

The respondent testified that:

- Rent was previously paid directly by the Ministry, however in November he started paying the rent himself.
- He has paid all the above rent in cash to the landlord.
- The landlord is a heavy drinker and refuses to give him receipts.

The respondent therefore believes the landlords application should be denied and the tenancy should continue.

Analysis



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The burden of proving the rent has been paid lies with the tenant, and in this case the tenant has not met that burden of proof as it is just his word against that of the landlords in the landlord denies receiving any cash payments from the tenant.

It is also my finding that I do not accept the tenants claim that the landlord does not issue receipts for the cash payments as I find it unlikely that the landlord would suddenly stop issuing receipts at exactly the same time as the tenant claims that he started paying in cash.

I therefore allow the landlords claim for an order possession and for outstanding rent up to January 9, 2010; I will not however, order the tenant to pay the security deposit and pet deposit as I have no authority to do so.

Conclusion

I have issued an order possession to the landlords effective two days after service on the respondent and have issued a monetary order against the tenant in the amount of \$1343.00.

The remainder of the claims on this application are dismissed with leave to reapply.

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: February 12, 2010.

Dispute Resolution Officer