



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

For the tenant – MT, CNR, OPT, LA

For the landlord - OPR, OPC, MNR, MNSD, MNDC, FF

Introduction

This decision was set to deal with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were made under the *Manufactured Home Park Tenancy Act*. However, I have determined that these disputes fall under the *Residential Tenancy Act*. Both files were due to be heard together. The landlord seeks an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, to keep the security deposit and recover the filing fee. The landlord has withdrawn the remainder of his application at the outset of the hearing. The tenant states she has moved from the property so withdraws her application in its entirety. Therefore, the tenants' application will not be dealt with during the hearing.

The landlord served the tenant by registered mail on January 15, 2010 with a copy of the Application and Notice of Hearing. I find the tenant was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

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

Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession for unpaid rent?



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- Is the landlord entitled to a Monetary Order to recover unpaid rent?
- Is the landlord entitled to keep the tenants security deposit?

Background and Evidence

Both Parties agree that this tenancy started on December 01, 2008. The tenant rented a mobile home trailer only from the landlord and paid rent of \$750.00 per month which included \$60.00 towards electricity costs. Rent was due on the first of the month. The tenant paid a security deposit of \$375.00 on December 01, 2008.

The landlord testifies that he served the tenant with a 10 Day Notice to End Tenancy for unpaid rent on January 06, 2010 at 4.00 with a witness. The Notice gives the date to vacate the rental unit as January 17, 2010. The landlord claims the tenant owes \$375.00 rent for January, 2010 and has amended his claim for unpaid rent to include February, 2010 of \$750.00.

The landlord seeks an Order of Possession based on the 10 Day Notice given to the tenant.

The landlord also seeks the sum of \$18.79 for unpaid utilities as the agreement he had with the tenant was that her rent included utilities up to \$60.00 and any amount over that would be paid by the tenant. The landlord states that the tenants' electricity bill for April and May, 2009 was 78.79. The landlord has not provided a copy of this bill in his evidence.

The tenant disputes the landlords claim. The tenant testifies that she was in hospital at the time the landlord served her with the Notice to End Tenancy. She had limited resources at that time to pay rent or move from the trailer. The tenant claims she filed her application to dispute the Notice but then arranged with some friends to move her belongings from the trailer on January 27, 2010. The tenant admits that she did not notify the landlord that she had moved out as she had to make the arrangements to move through a third party due to her health issues. The tenant agrees that she owes rent for January 2010 of \$375.00 but disputes that she owes rent to the landlord for February, 2010 as she had moved from the trailer.

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The landlord testifies that the tenant did not inform him that she had moved from the rental unit and had not returned the keys to him. Due to this the landlord claims he thought the tenant still had possession of the unit and therefore had not re-rented it to new tenants.

The tenant disputes the \$18.79 for additional Electricity use in April and May, 2009. The tenant states that she never received an electricity bill from the landlord for any period of her tenancy.

Analysis

I have reviewed all the evidence before me, including the affirmed evidence of both parties; I find the tenant does owe rent for January 2010 of **\$375.00**. I further find that the tenant did not inform the landlord that she had vacated the trailer on January 27, 2010 and therefore the landlord has incurred a loss of rental income for February, 2010 of **\$750.00** pursuant to s. 67 of the *Act*.

I find the landlord issued the tenant with a 10 Day Notice to End Tenancy on January 06, 2010 and although the tenant did dispute this notice she withdrew her application at the outset of the hearing. As the tenant has given solemnly affirmed evidence that she has moved from the trailer I am inclined to accept her testimony that the tenancy has ended. Consequently, I find that the tenancy has ended. The landlord is entitled to gain possession of the rental unit without an Order of possession being issued.

With regard to the landlords application to keep the tenants security deposit I find the tenant does owe rent to the landlord and therefore **I Order** the landlord to keep the security deposit of **\$375.00** and accrued interest of \$0.48 in partial satisfaction of his claim pursuant to s. 38(4)(b) of the *Act*.

With regards to the landlords' application for unpaid utilities, I find the landlord has not provided a copy of the utility bills to the tenant and has not provided a copy of utility bills in his evidence therefore due to a lack of evidence to support this section of his claim it is dismissed without leave to reapply.



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As the landlord has been largely successful with his application I further find he is entitled to recover the **\$50.00** filing fee from the tenant. A Monetary Order has been issued for the following amount:

Unpaid rent for January,2010	\$375.00
Filing fee	\$50.00
Less security deposit and accrued interest	(-\$375.48)
Total amount due to the landlord	\$799.52

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 **\$799.52**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

The tenants' application has been withdrawn at the outset of the 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: February 24, 2010.

Dispute Resolution Officer