

## **DECISION**

**Dispute Codes**      OPR, MNR, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession, a monetary order for unpaid rent and utilities, and to recover the filing fee from the tenant for the cost of this application.

### **Issues(s) to be Decided**

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

Is the landlord entitled to a monetary order for unpaid rent and utilities?

### **Background and Evidence**

The landlord testified that the month-to-month tenancy began on December 15, 2009. Rent in the amount of \$1,450.00 is payable on the 15<sup>th</sup> day of each month. There was no written Tenancy Agreement, and no security deposit was collected.

The landlord testified that he served the tenant personally with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on February 4, 2010. He further testified that the tenant is in arrears \$2,900.00 for rent due for January 15 to February 15, 2010, and February 15 to March 15, 2010, and that he served the tenant personally with the Landlord's Application for Dispute Resolution and the notice of hearing package on February 20, 2010. The application to the Residential Tenancy Branch was filed February 16, 2010.

### **Analysis**

The *Residential Tenancy Act* states:

**59 (2)** An application for dispute resolution must

- (a) be in the applicable approved form,
  - (b) include full particulars of the dispute that is to be the subject of the dispute resolution proceedings, and
  - (c) be accompanied by the fee prescribed in the regulations.
- (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

The landlord did not serve the hearing package within the 3 days allowed under the Act.

### **Conclusion**

The landlord's application is dismissed with leave to reapply. Since the landlord has not been successful with his claim, he is not entitled to recover the filing fee for the cost of this application from the tenant.

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: March 22, 2010.

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Dispute Resolution Officer