

DECISION

Dispute Codes OPC MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for Cause, a Monetary Order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement, and to recover the cost of the filing fee from the Tenants for this application.

Service of the hearing documents, by the Landlord to each Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on February 12, 2010. Mail receipt numbers were provided in the Landlord's evidence. The Tenants are deemed to be served the hearing documents on February 17, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The Landlord, Landlord's Agent, and the female Tenant appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession for cause pursuant to section 47 of the *Residential Tenancy Act*?

Is the Landlord entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement pursuant to sections 67 and 72 of the *Residential Tenancy Act*?

Background and Evidence

The month to month tenancy began on May 1, 2009 and the current monthly rent is payable on the first of each month in the amount of \$2,800.00. A security deposit of \$1,400.00 was paid on May 1, 2009.

The Landlord referred to her documentary evidence in support that the Tenants have repeatedly paid their rent late or with NSF cheques with the most recent NSF cheques being from February 2010, and December 2, 2009. December 2009 rent was later paid with two cheques dated December 04, 2009 and December 14, 2009. Copies of

additional late payments were provided in the Landlord's evidence. The 1 Month Notice to End Tenancy for Cause was served to the Tenants via registered mail on January 11, 2010. The Landlord argued that the Tenants have failed to pay February 2010 or March 2010 rent leaving total arrears of \$5,600.00.

The Tenant argued that she paid the Landlord cash to replace the February 2010 NSF cheque and that she was issued a receipt for this payment. The Tenant could not find her copy of the receipt, confirmed she did not submit a copy of this alleged receipt into evidence, and requested two more weeks from the Landlord before having to move.

The Agent dialled into the hearing later and testified that the Tenants have not made an attempt to replace the February 2010 NSF cheque and that no payments towards rent have been received from either Tenant since January 2010. The Agent confirmed there is currently \$5,600.00 outstanding for rent (February 2010 and March 2010).

Analysis

All of the testimony and documentary evidence was carefully considered.

Upon review of the 1 Month Notice to End Tenancy, I find the Notice to be completed in accordance with the requirements of the Act and I find that it was served upon the Tenants in a manner that complies with the Act. Upon consideration of all the evidence presented to me, I find the Landlord had valid reasons for issuing the Notice and I hereby approve the Landlord's request for an Order of Possession.

Monetary Order – I find that the Landlord is entitled to a monetary claim, that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenants' security deposit, and that the Landlord is entitled to recover the filing fee from the Tenants as follows:

Unpaid Rent for February 2010 and March 2010 (2 x \$2,800.00)	\$5,600.00
Filing fee	50.00
Subtotal (Monetary Order in favor of the Landlord)	\$5,650.00
Less Security Deposit of \$1,400.00 plus interest of \$0.00	-1,400.00
TOTAL OFF-SET AMOUNT DUE TO THE LANDLORD	\$4,250.00

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenants**. This order must be served on the Respondent Tenants and may be filed in the Supreme Court and enforced as an order of that Court.

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 **\$4,250.00**. The order must be served on the respondent and is enforceable through the Provincial Court and enforced as an order of that Court.

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 30, 2010.

Dispute Resolution Officer