

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 for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of this application.

Both parties appeared, gave affirmed evidence, and were given the opportunity to cross examine each other on their evidence.

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 or utilities?

Background and Evidence

This fixed-term tenancy started while the tenant was in hospital. Her father had rented it for her and paid the security deposit. Neither party was sure when the tenancy began, how much security deposit was paid, nor the expiration date of the fixed term. The landlord testified that the tenancy began over a year ago, but the tenant disputed that. The landlord also stated that the tenancy ended on the 10th or 11th of April, 2010, however, the tenant disagrees.

The parties do agree that rent was in the amount of \$450.00 per month due on the 1st day of each month. The landlord testified that rent for the month of February, 2010 was paid in full, but rent for March and April has not yet been paid. The landlord's claim is for March, April and May, 2010.

On March 11, 2010, the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, which states that the tenant failed to pay rent in the amount of \$450.00 that was due on March 1, 2010, and that the tenant was expected to move out by March 21, 2010. The tenant testified that she tried to give rent for April to the son-in-law of the landlord, who is a co-owner, but he refused the rent money and told the tenant he wanted her to move out. She also stated that after she was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, she paid \$300.00. The landlord was unable to provide any further information or evidence.

Analysis

Rent is due when it is due. It's clear from undisputed testimony of the parties that the tenant owes \$150.00 for rent for March and \$450.00 for April, 2010.

Since the tenant no longer resides in the unit, I decline to give an Order of Possession.

Because the landlord did not provide sufficient evidence to prove the security deposit amount and date paid, I decline to off-set that amount from the monetary order.

Conclusion

As for the monetary order, I find that the landlord has established a claim for \$600.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I further order that the landlord return the security deposit and interest in full to the tenant and to comply with Section 38 of the *Residential Tenancy Act*.

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: May 03, 2010.

Dispute Resolution Officer