



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MND, MNR, MNSD, OPR, CNR, PSF, RP

Introduction

A substantial amount of documentary 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 the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a monetary order for \$3064.80, and a request that the tenants bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution.

The tenant's application is a request to have the 10 day Notice to End Tenancy cancelled, and a request for a monetary order for \$3500.00.

Background and Evidence

On July 10, 2010 the landlord posted 10 day Notice to End Tenancy on the tenants door.

The landlord testified that:

- Rent is set at \$900.00 per month.
- The tenant has failed to pay any rent for the months of July 2010, August 2010, and September 2010, for a total of \$2700.00.
- The tenant also owes utilities in the amounts of \$220.95, and \$35.85.
- The tenant also failed to pay the full security deposit of \$450.00, only paying \$350.00 and therefore there is still \$100.00 outstanding.
- The tenant has also forged a \$1000.00 rent receipt, which is not in need landlords handwriting, nor does it have the landlord's signature.

The landlord is therefore requesting an Order of Possession for as soon as possible, and a monetary order as follows:

July 2010 rent outstanding	\$900.00
September 2010 rent outstanding	\$900.00
Utilities outstanding	\$228.95
For the utilities outstanding	\$35.85
Security deposit outstanding	\$100.00
Filing fee	\$50.00
Total	\$3114.80

The tenant testified that:

- He did receive the Notice to End Tenancy; however on July 5 2010 he paid \$1000.00 to the landlord to cover the rent and a portion of the utilities.

- The receipt he supplied as evidence is not a forgery and was signed by the landlord.
- The landlord also agreed to allow the tenants to deduct the cost of repairs and renovations he has done to the rental unit, off of the rent, an amount that now totals \$3500.00.
- The landlord also agreed to pay for the utilities to cover the costs of utilities used to do the renovations.
- He admits he has not paid August 2010 rent or September 2010 rent, but this money should be covered by the money owed for renovations.

The tenant therefore asks that the Notice to End Tenancy be cancelled and that he be credited \$3500.00 for work done.

In response to the tenant's testimony the landlord testified that:

- The tenant was given rent free for one half of January 2010 and all of February 2010 in exchange for doing work in the rental unit and that was the only agreement they had.
- He never agreed to any further rent reduction in exchange for work or to pay for utilities.
- The tenant is not being truthful when he states that the rent receipt is not a forgery, as they have never issued a rent receipt for \$1000.00 nor received \$1000.00 from the tenant in the month of July 2010.

Analysis

It is my finding the tenant has not met the burden of proving that there was any agreement for any further rent reductions in exchange for repairs or renovations.

Nor has the tenant supplied any evidence of having done any repairs or renovations.

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It is also my decision that the tenant has not met the burden of proving that the rent receipt he supplied was issued by the landlords. It's obvious from the handwriting on the receipt that it was filled out by the tenant, as the handwriting matches the tenant's handwriting on the application for dispute resolution, and since the signature is illegible, I am not convinced that this is a legitimate rent receipt.

Therefore it is my decision that the tenant does owe the full rent for the months of July 2010, August 2010, and now September 2010, for a total of \$2700.00 and therefore I allow that portion of the landlords claim.

It is also my decision that the landlord has the right to an Order of Possession.

I deny the landlords claim for a further \$100.00 security deposit, as a security deposit would have to be paid back at the end of the tenancy anyway.

It is also my decision that the landlord has met the burden of proving that the tenant does owe utilities totalling \$264.80, because the tenant has supplied no evidence to support his claim that the landlord agreed to pay the utilities.

I further order that the tenants bear the \$50.00 cost of the filing fee paid by the landlord

Conclusion

Tenants application

The tenants application is dismissed in full without leave to reapply.



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Landlords application

I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenant.

I also allowed \$3014.80 of the landlord's monetary claim. The landlord may therefore retain the full security deposit of \$350.00, and I have issued an order for the tenant to pay \$2664.80 to the landlord.

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: September 07, 2010.

Dispute Resolution Officer