



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MNR, MNSD, OPR

Introduction

Some a documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by registered mail that was mailed on September 4, 2010 but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issues(s) to be Decided

This was a request for an Order of Possession based on a Notice to End Tenancy for non-payment of rent, a request for a monetary order for \$4300.00 in unpaid rent, a request for the respondent to bear the \$50.00 cost of the filing fee, and a request that the landlord be allowed to keep the full security deposit plus interest towards this claim.

At the hearing the landlord withdrew the claim for outstanding rent, and is now wishing to just proceed with a request for an Order of Possession and the filing fee.

Background and Evidence

The applicant testified that:

- The tenant had failed to pay the full rent for the month of August 2010 and as a result a 10 day Notice to End Tenancy was served on the tenants.
- The tenant did not pay the outstanding rent within the five day grace period, and therefore they are still requesting an Order of Possession.
- The tenant since paid all the outstanding rent for the month of August and has also deposited rent for the months of September 2010 in October 2010, however all monies were accepted for use and occupancy only.
- They are therefore requesting an Order of Possession for November 30, 2010.

Analysis

When the tenant is served a 10 day notice for non-payment of rent they have five days in which to pay the outstanding rent and void the Notice to End Tenancy, and if they fail to do so they are deemed to have accepted the end of the tenancy.

In this case the tenants did not pay the outstanding rent within the five day grace period and since the landlords have only accepted money for use and occupancy only the landlords still have the right to an Order of Possession.

The landlords are requesting an Order of Possession for the end of November 2010 to allow the tenants extra time to find a place to move to.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Conclusion

I have issued an Order of Possession for 1:00 p.m. on November 30, 2010, and I further order that the landlords may retain \$50.00 of the tenant's security deposit to cover the cost of the filing fee that was paid for the application for dispute resolution.

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: October 13, 2010.

Dispute Resolution Officer