



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, OPR, FF

Introduction

Some 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.

Issue(s) to be Decided

This is a request for a monetary order for \$4100.00; a request for an order possession based on the Notice to End Tenancy for non-payment of rent, and request that the respondent bear the \$50.00 cost of the filing fee that the applicant paid for the application for dispute resolution.

Background and Evidence

The applicant testified that:

- The tenant has \$100.00 rent outstanding from December 2010.
- The tenant failed to pay the full \$1000.00 January 2011 rent.
- The tenant was therefore served with a 10 day Notice to End Tenancy for non-payment of rent on January 2, 2011.
- The tenant has failed to vacate and now February 2011 rent is also past-due.

- The tenant has also failed to pay his utility bills and he estimates that there is approximately \$2000.00 outstanding.

The applicant is therefore asking for an Order of Possession for as soon as possible and for a monetary order as follows:

December 2010 rent outstanding	\$100.00
February 2011 rent outstanding	\$1000.00
Outstanding utilities (estimate)	\$2000.00
Filing fee	\$50.00
Total	\$4150.00

The respondent testified that:

- He does owe December rent of \$100.00 and January rent of \$1000.00.
- He does not believe he should have to pay February 2011 rent however because he is packed and willing to vacate and was just waiting for this hearing.
- He also does not believe he should have to pay the full amount claimed by the landlord for utilities, because there are electrical problems in the rental unit, and a leaking hot water tap that would have caused extra electrical usage.

Analysis

The tenant has not filed a dispute of the Notice to End Tenancy, and in fact stated he does plan to vacate and therefore I allow the landlords request for an Order of Possession.

I also allow the following portions of the landlord's monetary claim:

December 2010 rent	\$100.00
½ February 2011 rent	\$500.00
Filing fee	\$50.00
Total	\$1650.00

The landlord has provided no evidence in support of the claim for utilities, and therefore that portion of the claim will be dismissed with leave to reapply.

I have allowed one half the rent for February 2011, because I find it unlikely that the landlord will be able to re-rent it before February 15, 2011. I have not allow the full rent for February 2011 at this time however, because the landlord is required to attempt to re-rent the unit and mitigate his loss. Therefore the claim for rent for the last half of February 2011 is dismissed with leave to reapply.

Conclusion

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

I have issued a monetary order in the amount of \$1650.00, and the remainder of the monetary claim is dismissed with leave to reapply.

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: February 04, 2011.

Residential Tenancy Branch