

DECISION

Dispute Codes FF, MNR, MNSD, OPR

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.

Issue(s) to be Decided

This is 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 \$7,819.00, and a request for recovery of the \$100.00 filing fee.

Background and Evidence

The applicant testified that:

- The tenant is presently \$6,757.00 behind in the rent and now another month rent will be due tomorrow.
- The tenant was served with a 10 day Notice to End Tenancy on December 17, 2010, and although the tenant did make some payments, there is still an excessive amount of rent outstanding.

The applicant is therefore requesting an Order of Possession based on the Notice to End Tenancy, and a monetary order for the outstanding rent plus the filing fee.

The applicant is also requesting an order for rent for March 2011, as she believes it's likely they will lose the full March 2011 rent as well.

The tenant testified that:

- He does not dispute that there is \$6,757.00 in rent outstanding however he is attempting to catch up on the rent and fully intends to pay the full amount of the outstanding rent.
- He asks that he be allowed to make payments until he is caught up, and continue to live in the rental unit.

Analysis

If the tenant owes rent, the landlord does have the right to serve a 10 day Notice to End Tenancy, and if the tenant does not either pay the full amount outstanding, or file a dispute of the notice within five days the tenant is deemed to accepted the end of the tenancy. In this case the tenant has not paid the full outstanding rent nor filed a dispute.

Therefore this tenancy ends pursuant to that Notice to End Tenancy and the landlord has the right to an Order of Possession.

The landlord has also established that there is a total of \$6,757.00 in rent outstanding and therefore I allow the claim for that outstanding rent plus the filing fee.

I will not allow the landlords claim for rent for March 2011, as that rent is not yet due.

Conclusion

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

I have allowed the landlords claim for outstanding rent totalling \$6,757.00 plus the filing fee of \$100.00 for a total of \$6,857.00. I therefore order that the landlord may retain the

full security deposit of \$530.00, and have issued a monetary order for the difference in the amount of \$6,327.00.

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 28, 2011.

Residential Tenancy Branch