



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, FF

Introduction

Some 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 hand on February 23, 2011, but did not join the conference call that was set up for the hearing.

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, and a request for a monetary order for \$1400.00. The applicant is also requesting recovery of the filing fee.

Background and Evidence

The applicant testified that:

- The tenant was renting both the upper portion and lower portion of the rental property and a total rent of \$1250.00 per month.

- The tenant stated that he only wanted to rent the upper portion of the rental unit, and therefore the landlord agreed to lower the rent to \$700.00 per month for just the upper unit.
- The tenants originally agreed to sign a new tenancy agreement however he has subsequently refused to do so.
- The tenant also refused to pay any rent for the last two months and eventually vacated at the end of February 2011.

The applicant therefore no longer requires an Order of Possession however he is requesting an order for \$700.00 for the month of January 2011, \$700.00 for the month of February 2011, and \$50.00 for recovery of the filing fee.

Analysis

It is my decision that the tenant is liable for the \$700.00 rent for both the months of January 2011 and February 2011, even if he refused to sign a new tenancy agreement.

Technically, since the tenant refused to sign a new tenancy agreement, the landlord could continue charging him the full rent of \$1250.00 per month; however the landlord has chosen to only claim the reduced amount that he had verbally agreed to.

I therefore allow the landlords full claim of \$1400.00 in outstanding rent and I order recovery of the \$50.00 filing fee from the tenant.

Conclusion

I have issued a monetary order in the amount of \$1450.00.

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: March 09, 2011.

Residential Tenancy Branch