



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR

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 an Order of Possession based on and Notice to End Tenancy for non-payment of rent, a request for a monetary order for outstanding rent totalling \$1650.00, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- The tenant has fallen behind on the rent and at this time the rent is still outstanding for the months of May 2011, and June 2011.
- The tenant did not pay the April 2011 rent until May 1, 2011.
- The tenant was given a receipt on May 1, 2011 for April 2011 rent, and on the receipt it stated that May 2011 rent was still outstanding.

- Originally he gave a Notice to End Tenancy to the tenant on May 1, 2011 however he subsequently found out that that was premature as the tenant had until the end of the day on May 1, 2011 to pay the May 2011 rent, and therefore he served a second Notice to End Tenancy on May 5, 2011, as the rent was still outstanding.

The applicant is therefore requesting an Order of Possession for as soon as possible, an order for the outstanding rent totalling \$1650.00 and recovery of the \$50.00 filing fee. The applicant is also requesting an order allowing him to keep the full security deposit plus interest towards the claim, and requests that a monetary order be issued for the balance.

The respondent testified that:

- He paid the May 2011 rent on May 1, 2011 and no receipt of any kind was issued because the landlord never issues receipts.
- The April 2011 rent was not outstanding.
- He has been short on the rent on occasion but he certainly did not owe the full April 2011 rent.
- He has not paid any rent for the month of June 2011.

Analysis

It is my decision that the landlord has shown that both the May 2011 and June 2011 rents are outstanding.

The burden of proving that you have paid the rent lies with the tenant, and in this case it is my decision that the tenant has not proven that they have paid the May 2011 rent.

The tenant claims to have paid the May 2011 rent however he has provided no evidence in support of that claim.

Therefore it is my decision that I will allow the landlords claim for an Order of Possession and for the outstanding rent.

I also order recovery of the filing fee.

Conclusion

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

I have allowed the landlord's full monetary claim of \$1700.00 and therefore the landlord may retain the full security deposit plus interest of \$388.29, and I have issued a monetary order in the amount of \$1311.71.

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: June 07, 2011.

Residential Tenancy Branch