



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MNSD, OPR

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 registered mail that was mailed on August 3, 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, a request for a monetary order for \$800.00, and a request for recovery of the filing fee.

Background and Evidence

The tenant failed to pay to July 2011 rent and as a result was served a 10 day Notice to End Tenancy which was posted on her door on July 12, 2011.

The landlord applied for dispute resolution on July 27, 2011.

The landlord testified that:

- The tenant came in yesterday and paid the full outstanding July 2011 rent, and the full August 2011 rent, and therefore they are no longer requesting a monetary order.
- The tenant was given a receipt for both the July 2011 rent and the August 2011 rent.
- Since the July 2011 rent was not paid until well after the Notice to End Tenancy was given they are still requesting that an Order of Possession be issued for as soon as possible.
- They are also requesting recovery of their \$50.00 filing fee.

Analysis

The landlords are requesting an Order of Possession, however the landlord testified that the tenant paid the August 2011 rent and was given a receipt for that rent. She further testified that the receipt was not given for use and occupancy only.

By accepting rent for the month of August 2011, the landlord has re-establish the tenancy and may no longer rely on the Notice to End Tenancy that was given in July 2011.

Therefore I am not willing to issue an Order of Possession based on the July 2011 Notice to End Tenancy.

I will however order that the tenant pay the \$50.00 filing fee that was paid by the landlords, because the tenant did not pay the outstanding rent until well after the landlords applied for dispute resolution.

Conclusion

The landlord withdrew the request for a monetary order.

I dismiss the landlords request for an Order of Possession.

I have issued an order for the tenant to pay the landlord the \$50.00 filing fee.

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: August 30, 2011.

Residential Tenancy Branch