



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for unpaid rent and to recover the cost of the filing fee from the Tenant for this application.

The parties appeared at the teleconference hearing, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Has the Tenant breached the *Residential Tenancy Act*, regulation or tenancy agreement?
2. If so, has the Landlord met the burden of proof to obtain a Monetary Order as a result of that breach pursuant to section 67 of the *Residential Tenancy Act*?

Background and Evidence

The parties entered into a tenancy agreement that began on April 15, 2011. Rent was initially payable in the amount of \$950.00 and was later reduced to \$900.00 due on or before the first of each month. The Tenant paid a security deposit of \$475.00.

The Landlord affirmed he sold his house as of July 31, 2011 and the transfer of title and all disbursements was handled by a notary public. He advised the Tenant occupied the rental unit for the month of July 2011 and failed to pay him the rent.

The Tenant confirmed she is still occupying the rental unit with the new owner as her landlord. She affirmed that she did not pay rent for July 2011 even though she occupied the unit during that month. She stated that the Landlord assaulted her and was prevented from attending the rental unit so the Landlord's son told her she did not have to pay rent for July 2011. She confirmed she does not have this agreement in

writing and does not have an Order issued by the *Residential Tenancy Branch* granting her the authority to withhold rent.

The Landlord stated that his son did not have authority to act as landlord and his son did not tell the Tenant she did not have to pay July 2011 rent.

Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*.

Section 26 of the Act provides that a tenant must pay rent when it is due in accordance with the *Residential Tenancy Act* and the tenancy agreement.

The Tenant alleges that she had a verbal agreement with the Landlord's son who told her she did not have to pay July 2011 rent. The Landlord stated his son does not have the authority to act as landlord and he denies that his son made such an agreement.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails. In this case, the Tenant has the burden to prove she was released from having to pay rent for July 2011. Accordingly, the only evidence before me was verbal testimony and I find the disputed verbal testimony insufficient to meet the Tenant's burden of proof.

Based on the aforementioned, and in the absence of an Order issued by the *Residential Tenancy Branch* allowing the Tenant not to pay July 2011 rent, I find the Tenant has failed to comply with section 26 of the Act. Accordingly I award the Landlord **\$900.00** for July 2011 rent.

The Landlord has been successful with his application, therefore I award recovery of the **\$50.00** filing fee.

Conclusion

The Landlord's decision will be accompanied by a Monetary Order in the amount of **\$950.00** (\$900.00 + \$50.00). This Order is legally binding and must be served upon the respondent Tenant.

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: November 16, 2011.

Residential Tenancy Branch