



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order for possession, a monetary order for unpaid rent and to recover the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession and a monetary order for unpaid rent and the filing fee?

Background and Evidence

Based on the testimony of both parties, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent. The Tenant has not paid the outstanding rent and has not applied to dispute the Notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

The parties came to an agreement during the course of the hearing.

The agent for the Landlord is requesting an order of possession to be effective November 25, 2011 at 1:00 P.M. The agent for the Landlord consented that the order of possession will not be enforced on the condition that the Tenant pays to the Landlord, no later than 1:00pm on November 22, 2011, the total amount of \$2,750.00 comprised

of the following: the balance of the outstanding rent for August (\$130.00), and three month's rent (\$830 x 3) for September, October, and November in the total amount of \$2,620.00 in outstanding rent; four months of late fees (\$20 x 4) totalling \$80.00 in late fees, and the \$50.00 filing fee in respect of this application.

With respect to the late payment fees, the Landlord provided a copy of the tenancy agreement which contains a provision for a \$20.00 late payment fee for each late payment of monthly rent. I note that the Regulations to the Act provide for a maximum fee of \$25.00 for late payment of rent.

If the \$2,750.00 is not paid by 1:00 pm on November 22, 2011 then the Landlord is entitled to enforce the order for possession and the Tenant must move out by **1:00 P.M. on November 25, 2011**. A formal order of possession has been issued and may be filed in the Supreme Court and enforced as an order of that Court.

As for the monetary claim, if payment of \$2,750.00 is not received by the above-mentioned time and date, I find that the Landlord has established a claim, for unpaid rent for the months of August, September, October, and November 2011, of \$2,620.00; four month's fees for late payment of rent, of \$80.00; and the \$50.00 fee paid by the Landlord for this Application totalling \$2,750 .00.

I order that the Landlord retain the security deposit (\$415.00) and pet deposit (\$200.00) and interest (\$0.28) which total \$615.28, in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,134.72**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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 15, 2011.

Residential Tenancy Branch