



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, 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 a Notice to End Tenancy for non-payment of rent, a request for a monetary order for \$990.00, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- The tenant failed to pay the December 2011 rent and therefore on December 6, 2011 a 10 day Notice to End Tenancy was posted on the tenant's door.
- To date the tenant has failed to comply with that notice, and has also failed to pay any of the December 2011, or January 2012 rent.

The applicant is therefore requesting an Order of Possession for as soon as possible and a monetary order as follows:

December 2011 rent outstanding	\$495.00
Filing fee	\$50.00
Total	\$1040.00

The applicant further requests an order to keep the full security deposit of \$247.50 towards the claim and requests that a monetary order be issued for the difference of \$792.50.

The respondent testified that:

- This rental property is in foreclosure and he was told by the bank to not pay any further rent to the landlords and to just find a new place to move to.
- He is moving out on January 15, 2012.
- He did pay day December 2011 rent to the landlord and got a receipt from the landlord however it does not have the landlord signature on it, it only has a scribble on the signature line.
- He has not provided any evidence to the dispute resolution hearing as he has not had enough time.

In response to the tenant's testimony the landlord testified that:

- The property is under foreclosure however there is no order for rents to be paid to the bank; rents are to continue to be paid to the landlord.
- The tenant is just using this as an excuse to not pay any rent.
- The tenant has not paid any rent for the month of December 2011.
- Since the tenant states that he is vacating the rental unit January 15, 2012 he would like an Order of Possession on that date.

Analysis

It is my finding that the tenant has not met the burden of proving that the December 2011 rent has been paid, or that there is any order that the rent be paid to the bank.

The tenant has not supplied any evidence in support of these claims and therefore the full December 2011 rent and January 2011 rent are still outstanding.

The landlord has shown that a proper 10 day Notice to End Tenancy has been served on the tenant, and therefore I will issue an Order of Possession for January 15, 2012 as requested by the landlord.

I also allow recovery of the filing fee.

Conclusion

I have issued an Order of Possession for 1:00 p.m. on January 15, 2012.

I have allowed the landlords full claim of \$1040.00 and I therefore order that the landlord may retain the full security deposit of \$247.50, and have issued a monetary order in the amount of \$792.50.

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: January 10, 2012.

Residential Tenancy Branch