



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 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 the Notice to End Tenancy for non-payment of rent, a request for a monetary order for \$2940.00, and a request to retain the full security deposit towards the claim. The applicant is also requesting recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- The tenants failed to pay the November 2011, and December 2011 rent and therefore on December 8, 2011 they were served with a 10 day Notice to End Tenancy for non-payment of rent.
- The tenants failed to comply with the notice or pay any the outstanding rent, and now the full January 2011 rent is also outstanding.

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

Rent outstanding for November 2011	\$980.00
Rent outstanding for December 2011	\$980.00
Rent outstanding for January 2012	\$980.00
Filing fee	\$50.00
Total	\$2990.00

The applicant further requests an order to retain the full security deposit plus interest towards the claim, and requests for a monetary order be issued for the difference.

The respondent's testified that:

- They admit that there is three months rent outstanding; however they dispute the amount of the rent.
- Their rent is \$950.00 per month, as it was reduced from \$980.00 per month in June 2011 when they gave up their parking space.
- They also admit to having received the Notice to End Tenancy however they believe they need more time to vacate.

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

- He has no record of the tenants giving up their parking space, however there was a previous manager in place in June of 2011 and it is possible that the tenants made the arrangements with him.

Analysis

The tenants admit that there is three months rent outstanding and that they received the 10 day Notice to End Tenancy, and therefore I will issue an Order of Possession to the landlord.

The tenants however do dispute the amount of rent outstanding and since the landlord has testified that it is possible that the arrangements to cancel the parking space may have been made with the previous manager is my finding that at this time the rent is \$950.00 per month.

I will therefore allow the claim for three months rent but only at \$950.00 per month.

I further allow recovery of the \$50.00 filing fee

Conclusion

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

I have allowed \$2900.00 of the landlords claim and I therefore order that the landlord may retain the full security deposit plus interest in the amount of \$389.81, and I have issued a monetary order in the amount of \$2510.19.

The remainder of the monetary claim is dismissed without leave to reapply.

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 12, 2012.

Residential Tenancy Branch