



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 \$3390.00, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- He withdraws his request for an Order of Possession since the tenants have vacated the rental unit.
- The tenants however have still failed to pay the January 2012 rent in the amount of \$1695.00 and he also believes that he may lose the rental revenue for the month of February 2012.

The applicant is therefore requesting a monetary order as follows:

January 2012 rent outstanding	\$1695.00
Potential lost rental revenue for February 2012	\$1695.00
Filing fee	\$50.00
Total	\$3440.00

The respondent's testified that:

- They have not paid any rent for the month of January 2012 and do not intend to.
- The landlord holds a combined security/pet deposit of \$1100.00 that he can apply towards the January 2011 rent.
- They also paid for an emergency repair due to a water leak which cost over \$600.00 and therefore the landlord owes them for that cost.

Analysis

The landlord has withdrawn a request for an Order of Possession and therefore no Order of Possession will be issued.

The landlord has however shown that the full rental revenue for the month of January 2012 is outstanding and therefore I allow that portion of the claim.

The tenant does not have the right to withhold the rent and tell the landlord to use the security/pet deposits to cover it and therefore I will not deduct that from the outstanding rent.

The tenant claims to have paid for emergency repairs, however the tenant has supplied no evidence in support that claim, and therefore I will not make any deduction for urgency repairs from the outstanding rent.

I will not however allow the landlords claim for potential lost rental revenue as that claim is premature because at this point we do not know how much, if any, rental revenue will be lost for the month of February 2012.

I will allow the recovery of the filing fee.

Conclusion

I have issued a monetary order in the amount of \$1745.00.

The claim for lost rental revenue for the month of February 2012 is dismissed with 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 31, 2012.

Residential Tenancy Branch