



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNR, MNSD, OPB, OPR

Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant(s) testified that the respondent was served with notice of the hearing on April 23, 2012 however the respondent did not join the conference call that was set up for the hearing until approximately 15 to 20 minutes after the time that the hearing was to start, and after my decision had already been given.

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

Background and Evidence

The applicant testified that:

- The tenant has failed to pay \$340.00 of the March 2012 rent, and has paid no rent for the months of April 2012, and May 2012.

- The tenant has also failed to pay his share of the utilities.
- The tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on April 15, 2012.
- Rent has been late a total of six times since the beginning of the tenancy.

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

Rent outstanding for March 2012	\$340.00
Rent outstanding for April 2012	\$1000.00
Rent outstanding for May 2012	\$1000.00
Utilities outstanding	\$229.86
Late fees \$30.00 X 6	\$180.00
Filing fee	\$50.00
Total	\$2799.86

The applicant is also requesting an order to keep the full \$800.00 security deposit towards this claim and requests that a monetary order be issued for the difference.

Analysis

It is my finding that the tenant has been served with a valid 10 day Notice to End Tenancy and has failed to comply with that notice, and therefore I allow the landlords request for an Order of Possession.

The landlord has also shown that there is \$2340.00 in rent outstanding and I therefore allow that portion of the claim.

The landlord has also shown that there is \$229.86 in outstanding utilities and I therefore allow that portion of the claim.

It is also my finding that the rent has been late on six occasions; however I will not allow the full amount claimed by the landlord for late fees because the Residential Tenancy Act only allows a maximum late fee of \$25.00. Therefore I allow \$150.00 for late fees.

I also order recovery of the \$50.00 filing fee.

Conclusion

I have allowed \$2769.86 of the landlords claim and I therefore order that the landlord may retain the full security deposit of \$800.00, and have issued a monetary order in the amount of \$1969.86. The remainder of the 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: May 09, 2012.

Residential Tenancy Branch