



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent or utilities and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend. The Landlord states that the Tenant was served with the Notice of Hearing documents in person on December 10, 2012. The Landlord's Agent, J.I. states that he personally served the Tenant with his son as a witness. I find based upon the undisputed testimony of the Landlord that the Tenant was properly served.

The Landlord's Agent states that the monetary claim is amended to \$1,250.00 as she states that the Tenant has made several late rent payments.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background, Evidence and Analysis

This Tenancy began on March 1, 2011 on a month to month basis as shown by the submitted signed copy of the Tenancy Agreement. The monthly rent is \$1,400.00 payable on the 1st of each month and a security deposit of \$700.00 was paid.

The Landlord states that the Tenant was served with the 10 day notice to end tenancy issued on November 26, 2012 which was posted to the rental unit door on the same day. The notice states that \$1,400.00 was outstanding as of November 1, 2012 and the notice shows an effective date of December 9, 2012.

The Landlord seeks an order of possession and a monetary claim of \$1,250.00 for unpaid rent. The Landlord states that the Tenant made late rent payments of \$1,400.00

on December 6, 2012 and \$1,350.00 on January 11, 2013. The Landlord indicated that rent was reduced to \$1,200.00 for January 2013. The Landlord states that the Tenant was issued receipts for the late rent payments.

I accept the undisputed testimony of the Landlord and find that the Tenant was served the 10 day notice to end tenancy issued for unpaid rent on November 26, 2012.

However, I find that the Landlord reinstated the Tenancy when the late rent payments were received and the Tenant continued to reside at the rental. The Landlord did not give any notification that upon receiving the late rent after the expiry term of the notice that an end to the tenancy was still being sought. The Landlord's application for an order of possession is dismissed.

As for the monetary claim, I find based upon the undisputed testimony of the Landlord that unpaid rent arrears of \$1,250.00 has been established. The Landlord having being found partially successful in the application is only entitled to \$25.00 in recovery of the filing fee. The Landlord is granted a monetary order for \$1,275.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord's request for an order of possession is dismissed.

The Landlord is granted a monetary order for \$1,275.00.

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 14, 2013

Residential Tenancy Branch

