



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

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, a request for a monetary Order for outstanding rent, a request for recovery of the filing fee, and a request to retain the full security deposit towards the claim.

Background and Evidence

The applicant testified that:

- Rent for this unit is \$2900.00 per month.
- The tenant has not paid rent for the months of December 2012 and January 2013.
- The tenant was served with a 10 day Notice to End Tenancy, on December 7, 2012; however the tenant has failed to comply with that notice.
- They therefore request an Order of Possession for as soon as possible and request a monetary order for the full amount of rent outstanding.
- If the tenant pays the full rent in a timely manner, they will not enforce the Order of Possession.

The respondent testified that:

- He has withheld the rent to put pressure on the landlord to do needed repairs.
- Those repairs have still not been done, and therefore he has not paid the rent.

Analysis

The Residential Tenancy Act does not allow tenants to withhold rent to pressure the landlord and if a tenant does so; the landlord does have the right to end the tenancy for non-payment of rent.

Therefore since in this case the tenant has withheld rent with no authority to do so, I will allow the landlords request for an Order of Possession and for an Order for the outstanding rent.

I also order recovery of the filing fee.

Conclusion

I have issued an Order of Possession that is enforceable 2 days after service on the tenant.

I have issued a monetary order for \$5800.00.

I make no order with regards to the security deposit as this tenancy may be continuing.

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 23, 2013

Residential Tenancy Branch

