



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, O, 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 or submit any documentary evidence. The Landlord states that the Tenant was served with the notice of hearing package by Canada Post Registered Mail on January 16, 2013 and has submitted the Customer Receipt as confirmation. I accept the Landlord's undisputed evidence and find that the Tenant was properly served with the notice of hearing package and the submitted evidence.

Section 72 of the Act addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the Landlord's claims for recovery of litigation costs (registered mail fees) are dismissed.

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

The Landlord states that the Tenancy began in May of 2005 and that there is a signed tenancy agreement. The current monthly rent is \$1,435.00 payable on the 1st of each month and that a security deposit of \$710.00 was paid.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy for unpaid rent by Canada Post Registered Mail on January 5, 2013 and has submitted the Customer Receipt as confirmation. The Landlord states that the Tenant made a rent

payment of \$1,500.00 on February 2, 2013 for the January arrears and that no rent has been paid since.

I accept the undisputed testimony of the Landlord and find that the Tenant was properly served with the 10 day notice to end tenancy issued for unpaid rent. The Tenant did not pay the rent or file for dispute resolution within the allowed time period. However, the Landlord accepted rent on February 2, 2013 from the Tenant after the effective date of the notice January 15, 2013 (corrected to January 20, 2013 for registered mail service) without giving notice to the Tenant that by accepting the rent it would be for use and occupancy only. I find that the Landlord has reinstated the Tenancy. The Landlord's application for an order of possession is dismissed.

As for the Landlord's monetary claim, I find based upon the direct testimony of the Landlord that the rent arrears of \$1,370.00 (\$1,435.00- \$65.00) for February have been established. The Landlord is also entitled to recovery of the \$50.00 filing fee. The Landlord is granted a monetary order for \$1,420.00. 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 Application for an order of possession is dismissed.
The Landlord is granted a monetary order for \$1,420.00.

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: February 13, 2013

Residential Tenancy Branch

