



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, 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 28, 2013 and has provided in his direct testimony the Customer Tracking Number as confirmation. I accept the Landlord's undisputed testimony and find that the Tenant was properly served with the notice of hearing package.

The Landlord has stated during the hearing that he is an agent for the owner who is the named Landlord on the 10 day notice to end tenancy which was issued on January 7, 2013.

The Landlord clarified at the beginning of the hearing that the Tenant vacated the rental unit sometime before February 5, 2013 when he attended the rental unit and discovered that it was vacated by the Tenant. As such the Landlord no longer requires an order of possession. No further action is required for this portion of the Application.

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 claim for recovery of litigation costs (legal consultation fees, agency fees) are dismissed.

The Landlord has also withdrawn the monetary claim for \$2,800.00 for an order of possession. No further action is required for this portion of the application.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order for unpaid rent?

Background, Evidence and Analysis

The Landlord states that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated January 7, 2013 on the same date by posting it to the rental unit door by the Owner with a witness. The Landlord has submitted a proof of service document as confirmation. The notice states that \$1,500.00 in unpaid rent was due on January 1, 2013.

The Landlord seeks a monetary order for unpaid rent of \$3,000.00 for January \$1,500.00 and February \$1,500.00 rent. The Landlord stated in his direct testimony that there was nothing wrong with the rental unit and it remains un-rented. The Landlord stated that he has attempted to re-rent the unit with no success. The Landlord has also stated in his direct testimony that the unit remains unrented because of extensive damage to the rental unit caused by the Tenant.

I accept the undisputed testimony of the Landlord and find that the Tenant failed to pay rent due within the allowed time frame and has also failed to apply for dispute resolution to dispute the notice. I find that the Landlord has established a claim for \$1,500.00 in unpaid rent based upon the 10 day notice to end tenancy issued for unpaid rent on January 7, 2013. As for the Landlord's claim for February rent of \$1,500.00, I find that the Landlord has failed to provide sufficient evidence to satisfy me that any attempts were made to mitigate any losses. The Landlord's direct testimony was conflicting regarding the state of the rental unit and the Landlord has failed to provide sufficient evidence to satisfy me for this portion of the claim. The Landlord's claim for February rent is dismissed.

The Landlord has established a monetary claim for \$1,500.00 in unpaid rent. The Landlord is also entitled to recovery of the \$50.00 filing fee. The Landlord is granted a monetary order for \$1,550.00. 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 is granted a monetary order for \$1,550.00.

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 20, 2013

Residential Tenancy Branch

