



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR, FF

Introduction

A substantial amount of 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 and the witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an Order of Possession for as soon as possible, and a request for a Monetary Order for \$1280.00. The applicant is also requesting recovery of the \$50.00 filing fee.

Background and Evidence

This tenancy began on July 1, 2012, with a monthly rent of \$700.00, and a security deposit of \$350.00 was paid on July 2, 2012.

The applicant testified that:

- The tenant did not pay the full rent in December 2012, and there is still \$340.00 outstanding.
- The tenant did not pay the full rent in January 2013, and there is still \$20.00 outstanding.

- The tenant did not pay the full rent in February 2013, and there is still \$100.00 outstanding.
- The tenant has not paid any rent in the month of March 2013.
- The tenant also failed to pay her cable box rental of \$100.00, and failed to pay her monthly cable fee of \$5.00 per month for the 4 months of July 2012 through October 2012.

The applicant is therefore requesting a monetary order as follows:

December 2012 rent outstanding	\$340.00
January 2013 rent outstanding	\$20.00
February 2013 rent outstanding	\$100.00
March 2013 rent outstanding	\$700.00
Cable box rental	\$100.00
Monthly cable fees 4 X \$5.00	\$20.00
Filing fee	\$50.00
Total	\$1330.00

The respondent testified that:

- The landlord told her at a meeting on December 5, 2012 that she did not have to pay \$340.00 of the December 2012 rent, because she had to buy electric heaters since the furnace wasn't working.
- She is not sure why there is still \$20.00 rent outstanding for January 2013.
- The landlord knew there was a problem with the refrigerator in the rental unit that resulted in the loss of a significant amount of food and therefore the landlord allowed her to deduct \$100.00 from the February 2013 rent.
- She has not paid any March 2013 rent as she was waiting for the outcome of this dispute resolution hearing.
- She has not paid for the cable box rental or the monthly fees because she has her own cable and the cable box was returned to the landlord.

The respondents witness testified that:

- She was present at the meeting where the landlord told the tenant she did not have to pay the \$340.00 of December 2012 rent, because the furnace wasn't working and the tenant had to buy electric heaters.
- She also heard the landlord tell the tenant that she could deduct money from the rent for lost food because of the problems with the refrigerator.
- This meeting took place on January 5th or 6th, 2013.

In response to the respondent's testimony and the respondent's witness's testimony, the landlord testified that:

- There was never any agreement for the tenant to not pay rent in the months of December, January, or February.
- He did not push the tenant for the outstanding rent because the tenant kept telling him she was going to move out; however she never did.
- The tenant did return the cable box but not until November 2012, and the charges he is asking for are for the months of July 2012 through October 2012.

Analysis

It's my finding that the landlord has shown that there is rent outstanding as follows:

December 2012	\$340.00
January 2013	\$20.00
February 2013	\$100.00
March 2013	\$700.00
Total	\$1160.00

The tenant claims that the landlord agreed to allow her to deduct money from the rent at a meeting on **December** 5, 2012, however the tenants witness stated that the landlord and tenant reached this agreement at a meeting on **January** 5 or 6 2013.

It is my finding that, since the testimony of the respondent and her witness varies substantially, the testimony lacks credibility and therefore, the respondent has not met the burden of proving that the landlord ever agreed to any deductions from the rent.

I therefore allow the landlords request for an Order of Possession for as soon as possible, and I also allow the claim for the full outstanding rent of \$1160.00.

I deny the landlords claim for cable box rental and cable fees, as the landlord has provided no evidence of any such agreement, and the tenant testified that she has supplied her own cable since July of 2012.

I will allow the landlords request for recovery of the \$50.00 filing fee.

Conclusion

I have issued an order of possession that is enforceable two days after service on the tenant.

I have allowed \$1210.00 of the landlords claim and have issued a monetary order in that amount.

As stated above the remainder of the landlords monetary 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: March 07, 2013

Residential Tenancy Branch

