



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on February 6, 2013, by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and to recover the cost of the filing fee from the Tenant for this application.

The parties appeared at the teleconference hearing and gave affirmed testimony. The Tenant and his Advocate signed into this proceeding 8 minutes late. I informed them of the Landlord's testimony prior to them signing into the hearing and we continued with the proceeding.

During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Has the Landlord withdrawn his application for an Order of Possession?
2. Should the Landlord be issued a Monetary Order?

Background and Evidence

Neither party submitted documentary evidence regarding the Landlord's application.

The parties agreed that they entered into a verbal month to month tenancy that began on November 15, 2012. Rent for the entire basement suite was payable in the amount of \$750.00 per month and deposits were not required to be paid.

The Landlord confirmed that the keys were returned to him when the Tenant vacated the unit in mid February 2013. He withdrew his request for an Order of Possession as

the Tenant has moved out. He is seeking \$1,850.00 in unpaid rent which has accumulated from December 2012 to February 2013.

The Tenant stated that he has paid his rent in full and has always paid in cash. He advised that the Landlord never provided him with receipts for payments of his rent. The Tenant argued that he moved out in December 2012 and that his roommate continued to occupy the rental unit. He confirmed that he used to share the rent with his roommate so his portion was only \$375.00.

The Landlord confirmed the roommate continues to occupy the rental unit. He claims he provided rent receipts to the Tenant whenever rent was paid to him in cash.

In closing the Tenant noted that there was no documentary evidence submitted by the Landlord to prove the Tenant has outstanding rent and they stand by his statement that his rent is paid in full.

Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*. Accordingly an applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement; and
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation; and
3. The value of the loss; and
4. The party making the application did whatever was reasonable to minimize the damage or loss.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

In this case, the Landlord has the burden to prove the Tenant failed to pay his rent in full. Accordingly, in the absence of documentary evidence such as receipts, the only evidence before me was disputed verbal testimony which I find insufficient to meet the Landlord's burden of proof for a Monetary Order. Therefore, I dismiss the Landlord's monetary claim without leave to reapply.

The Landlord has not been successful with his application; therefore, he must bear the burden of the cost to file his application.

Conclusion

The Landlord withdrew his request for an Order of Possession.

I HEREBY DISMISS the Landlord's application for monetary compensation, 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 04, 2013

Residential Tenancy Branch

