



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, OPR, CNL, CNR

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

All testimony was taken under affirmation.

Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for \$1750.00, and a request for recovery of the \$50.00 filing fee.

The tenant's application is a request for an Order canceling a Notice to End Tenancy for nonpayment of rent and a Notice to End Tenancy for landlord use.

Background and Evidence

Both these applications deal with requests relating Notices to End Tenancy, however neither the landlord nor the tenant has supplied a copy of any Notice to End Tenancy for today's hearing. I therefore informed both the landlord and tenant at the beginning of the hearing that I would not be dealing with the requests related to Notices to End Tenancy.

Therefore the only issue I adjudicated at the hearing was the landlords request for a Monetary Order.

The landlord testified that:

- The tenant has failed to pay the May 2013 rent in the amount of \$1150.00.
- The tenant is also supposed to pay all utilities, however the tenant has failed to pay the hydro-utility of \$168.00, and the water utility of \$440.00

The landlord is therefore requesting a Monetary Order as follows:

May 2013 rent outstanding	\$1150.00
Hydro-utility outstanding	\$168.00
Water utility outstanding	\$440.00
Filing fee	\$50.00
Total	\$1808.00

The tenant testified that:

- He admits that he owes the full May 2013 rent.
- He is supposed to pay utilities, however the landlord has never shown him these outstanding utility bills he is now claiming.
- He fails to see how he can pay utility bills without first being informed that there utilities outstanding.

In response to the tenant's testimony the landlord testified that:

- He has not given the tenant actual copies of the utility bills, however he has shown the tenant the amount of utilities that are outstanding.

Analysis

The tenant admits that he owes the full May 2013 rent and therefore I allow that portion of the landlords claim.

I will not allow the landlords claim for utilities, at this time, however because the landlord has shown no evidence that he has ever given the tenant a written demand for payment of those utilities. The Residential Tenancy Act requires that the landlord give the tenant a written demand for payment of utilities, and then if the tenant does not pay those utilities within 30 days, the landlord can issue a Notice to End Tenancy.

Further the landlord has supplied no evidence to support the claim of outstanding utilities.

I will however allow the landlords request for recovery of the filing fee, as I have still allowed a substantial portion of the landlord's monetary claim.

Agreement made by the parties at the hearing

Both parties agreed that the tenant will move out of the rental unit at the end of May 2013 and an Order of Possession will be issued for that date.

Conclusion

Tenant's application

The tenant's application is dismissed without leave to reapply.

Landlord's application

I have issued an Order for the tenant to pay \$1200.00 to the landlord.

The landlords claim for outstanding utilities is dismissed with leave to reapply.

In light of the above agreement, I have issued an Order of Possession for 1 p.m. on May 31, 2013.

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: May 23, 2013

Residential Tenancy Branch

