



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Optimum Realty Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MNR, OPR

Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for \$4950.00, and a request for recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

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

All testimony was taken under affirmation.

Issue(s) to be Decided

Originally the applicant had been requesting an Order of Possession, however the landlord now has possession of the rental unit and therefore an Order of Possession is no longer requested.

The issue therefore is whether or not the landlord has a right to a Monetary Order for \$4950.00 and recovery of the \$50.00 filing fee.

Background and Evidence

The landlord testified that:

- On September 12, 2012 the respondent signed a fixed term tenancy agreement with an expiry date of November 30, 2013.

- The tenant failed to pay the September 2013 rent and therefore on September 17, 2013 the tenant was served with a 10 day Notice to End Tenancy.
- They got no response from the tenant, and had no contact with the tenant, and therefore on October 2, 2013 they applied for dispute resolution.
- On October 8, 2013 they posted a notice of entry and subsequently entered the rental unit on October 18, 2013 with the assistance of a locksmith.
- Upon entry they found the rental unit had been abandoned.
- The tenant however had left a large amount of belongings behind and the rental unit was in need of significant cleaning and junk removal.
- As a result they have been unable to re-rent the unit to date.
- They are therefore requesting an order as follows:

September 2013 rent outstanding	\$1650.00
October 2013 rent outstanding	\$1650.00
November 2013 lost rental revenue	\$1650.00
Filing fee	\$50.00
Total	\$5000.00

The respondent testified that:

- The previous property manager had told her that if she was ever late with the rent again he was going to evict her and therefore since she knew she would not be able to have the September 2013 rent she decided to move out of the rental unit in August 2013.
- She did not notify the landlord to inform him that she was vacating as she was embarrassed about not being able to pay the rent in the home in which she had lived since 2004.
- She did leave a large amount of belongings behind, as she could not even afford the cost of moving them.
- She did not have the rent because her children's father had left and was refusing to pay any child support and in fact she has been unable to even locate him.
- She did send a letter in September 2013 explaining the situation, and returning the keys.
- She does not have the money to pay this outstanding rent.

In response to the respondent's testimony the applicant testified that:

- He wishes that the tenant had at least contacted him as they could probably have worked something out.
- They have never received a letter or the keys that the tenant says she sent.

Analysis

It's my finding that the respondent is liable for rent for the months of September 2013, and October 2013, as she failed to inform the landlord that she had vacated, and the landlord did not obtain possession of the rental unit until well into the month of October 2013.

It's also my finding that the respondent is liable for the loss rental revenue for the month of November 2013, as she has admitted that a large amount of belongings were left in the rental unit which has required the landlords time to remove and to ready the unit for re-renting.

I also allow the request for recovery of the filing fee

Conclusion

I have allowed the landlords full claim and I've issued a Monetary Order in the amount of \$5000.00.

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: November 12, 2013

Residential Tenancy Branch

