



Dispute Resolution Services

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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: OPC MNDC MNR FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 47, and 55 for cause;
- b) A Monetary Order for damages to the property and unpaid rent and utilities;
and
- c) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The landlord said the tenant vacated on September 1, 2014 after they posted the Notice to end Tenancy dated August 8, 2014 to be effective September 30, 2014 on the door. They served the Application for Dispute Resolution by registered mail. It was verified online that Notices were left for the tenant to pick it up from September 2, 2014 but it was returned to the landlord after the tenant did not claim it by September 27, 2014. I find that the tenant is deemed to be served with the Application/Notice of Hearing according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated August 8, 2014 for cause. The landlord no longer requires an Order of Possession. Has the landlord proved on the balance of probabilities that money is owing for rent and utilities and they are entitled to a monetary order and to retain the security deposit to offset the amount owing? Is the landlord also entitled to recover the filing fee?

Background and Evidence:

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises in November, 2013, a security deposit of \$490 was paid and rent was \$980 a month. The landlord said that the tenant owed utilities of \$145 based on

\$45 a month for 3 months while they had their power disconnected and used the power from the common area of the building. He said he based this on the average cost of a unit's electric power each month. They have their own meters. He requests to keep the balance of the security deposit as the tenant left a lot of garbage and also rent owing.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

The landlord no longer requires an Order of Possession as the tenant vacated on September 1, 2014.

Monetary Order

I find that there are utility arrears of \$145 for the use of the building's hydro for 3 months. Although the landlord requested that a monetary order be issued for the balance of the security deposit, I find insufficient evidence of the amount of rent owing or any damages to the property. I give the landlord leave to reapply with evidence of other amounts owed.

Conclusion:

I find the landlord is entitled to a monetary award as calculated below and to retain portion of the security deposit to offset the amount owing and to recover filing fees paid for this application. I give the landlord leave to reapply with appropriate evidence to recover other amounts owed by the tenant.

Calculation of Monetary Award:

Utilities owed (3x\$45)	145.00
Filing fee for this application	50.00
Less security deposit (no interest 2013-14)	-490.00
Balance remaining in trust	-295.00

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: October 21, 2014

Residential Tenancy Branch

