



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF (Landlord's Application)
 CNR (Tenant's Application)

Introduction

This hearing convened as a result of cross applications. In the Landlord's Application for Dispute Resolution he requested an Order of Possession based on unpaid rent, a Monetary Order for unpaid rent and for money owed or compensation for damage or loss under the *Residential Tenancy Act, Regulation*, or tenancy agreement, and to recover the filing fee.

In the Tenant's Application he sought to cancel a Notice to End Tenancy for Unpaid Rent or Utilities.

Only the Landlord appeared at the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

As the Tenant failed to attend the hearing, his application is dismissed without leave to reapply.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to monetary compensation?
3. Should the Landlord recover the filing fee?

Background and Evidence

The Landlord testified that the tenancy began on March 1, 2014. Initially the Tenant paid \$740.00 per month in rent. The Landlord testified that in September of 2015 the rent was raised to \$758.00.

The Landlord issued a 10 Day Notice to End Tenancy on September 10, 2015 indicating the sum of \$750.00 was owed for rent as of September 1, 2015. The Landlord testified that the Tenant was personally served the Notice on September 10, 2015. Also introduced in evidence was a copy of the Proof of Service Notice to End Tenancy.

The Landlord testified that the Tenant vacated the rental unit at some point in October 2015. The Landlord further testified that despite moving from the rental unit, the Tenant, and or his son, came back to the rental unit and “ransacked the place” including smashing the front entry door. As the Tenant had failed to vacate the rental unit at the time the Landlord made his application, and he did not have evidence of the condition of the rental unit before me, he is at liberty to apply for a further Monetary Order should he decide to pursue such compensation.

The Landlord testified that the Tenant also failed to pay rent for October 2015 and due to the condition the rental unit was left by the Tenant, the Landlord was not able to rent the rental unit for November 2015. In total the Landlord sought the sum of \$2,274.00 for rent at \$758.00 per month for September 2015, October 2015 and November in addition to the filing fee of \$50.00.

Analysis

Based on the documentary evidence, the undisputed testimony of the Landlord, and on the balance of probabilities, I find the following.

Pursuant to section 26 of the *Act*, a Tenant must pay rent when it is due in accordance with the tenancy agreement.

Based on the above, I find the Tenant breached section 26 of the *Act* by failing to pay September and October rent as claimed by the Landlord. I also find the Landlord also suffered a loss of rent for the month of November 2015 as the Tenant did not vacate the rental unit until October 25, 2015 which did not leave the Landlord a reasonable amount of time to secure a new Tenant for the month of November. Further, I accept the Landlord's undisputed testimony that the Tenant, or his guests, caused damage to the

rental unit on that day which prevented the rental unit from being re-rented in November of 2015.

Therefore, I find the Landlord has met the burden of proof and I grant the Landlord monetary compensation in the amount of \$758.00 for September, \$758.00 for October and \$758.00 for November for a total of \$2,274.00 as described above.

As the Landlord's application had merit, I grant the Landlord the recovery of the \$50.00 filing fee.

I grant the Landlord a monetary Order pursuant to section 67 of the *Act* in the amount of **\$2,324.00**. This Order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that court.

Conclusion

I find that the Landlord has established a total monetary claim of **\$2,324.00** as indicated above and I grant the Landlord a monetary Order under section 67 for this amount. This Order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 16, 2015

Residential Tenancy Branch

