



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPM MNDCL SD FFL

Introduction:

Both parties and witnesses attended the hearing and gave sworn testimony. The tenant agreed they received the Application for Dispute Resolution by registered mail. I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 44 (1) (c) and 55 as the tenant has breached a term of the Mutual Agreement to End Tenancy by not vacating as agreed;
- b) A Monetary Order for over-holding rent and compensation for damages suffered due to the tenant over-holding; and
- c) An order to recover the filing fee pursuant to Section 72.

Issue(s) to be Decided:

Is the landlord entitled to an Order of Possession and to a Monetary Order for rental arrears, other compensation and filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises March 1, 2018, a security deposit of \$1050 was paid and rent is currently \$2100 a month. The landlord seeks an Order of Possession based on a Mutual Agreement to End Tenancy on August 31, 2018. The tenant says it is not his signature on the Agreement and he never signed it. He claims someone forged the signature.

The tenant agreed he owes \$2100 in rent for September and October but he was not served a 10 Day Notice to End Tenancy.

The landlord maintains he did sign the Mutual Agreement. They claim \$4200 in over-holding rent and \$1176 that they incurred for flight expenses to come back to do repairs. They were unable to do the repairs as the tenant won't vacate. They also claimed interest expense on the compensation requested.

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

Analysis

Order of Possession

I find that the landlord is not entitled to an Order of Possession. Although a tenancy may be ended by mutual agreement, I find insufficient evidence that the tenant ever signed or agreed to end the tenancy. I carefully examined signatures of the two tenants on the tenancy agreement and on the Form K and the signature on the Mutual Agreement is the same or sufficiently similar to convince me that either of the tenants signed the Mutual Agreement. I dismiss the landlord's application for an Order of Possession. The tenancy continues until legally ended with a Notice under the Act.

Monetary Order

I find that there are rental arrears in the amount of \$4200.00 representing rental arrears from for September and October 2018. This is not over-holding rent as the tenancy is not ended.

I dismiss the claim for further compensation for the flights to fix the unit were based on an invalid Notice to End Tenancy.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to recover filing fees paid for this application.

Unpaid rent Sept. & Oct. 2018 (2x\$2100)	4200.00
Filing fee	100.00
Total Monetary Order to Landlord	4300.00

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 18, 2018

Residential Tenancy Branch