



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR, OPB, MNR, FF.

Introduction

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

- A monetary order for unpaid utilities pursuant to Section 67;
- An order of possession for utilities and breach of contract pursuant to Section 55;
- An order to recover the filing fee, pursuant to Section 72.

The notice of hearing dated November 25, 2008 was served on the tenant on November 26, 2008, by registered mail. Despite having been served the notice of hearing, the tenant did not attend for the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues to be decided

- Is the landlord entitled to an order of possession for unpaid utilities and for breach of the tenancy agreement?
- Is the landlord entitled to a monetary order to recover unpaid utilities?

Background and Evidence

The landlord testified that the tenancy started on July 01, 2008, the monthly rent was set at \$900.00 due in advance on the first day of the month and that the tenant agreed to pay two thirds of the utilities. The tenant failed to pay utilities for September, October and November and he continues to occupy the rental unit. The landlord has submitted into evidence a written statement that describes the problems he has with his tenants. The rental suite is located on the upper level and the landlord occupies the lower level. The landlord stated that on or about September 15, 2008, the tenant's brother and his girlfriend moved in along with their dog and two cats.

The tenant advised the landlord that the guests would be moving out after two weeks, but they continued to occupy the unit in spite of several verbal reminders from the

landlord. The landlord stated that the animals and smoking inside the unit are hazardous to his health and has submitted a doctor's note to confirm the same. On November 01, 2008 the landlord and tenants came to a mutual agreement to end the tenancy on November 22, 2008 and they completed and signed the relevant form. The landlord has submitted into evidence a copy of this form.

The landlord has provided copies of the utility bills along with a calculation of the tenant's share of the utilities. The landlord is requesting a monetary order for unpaid utilities in the amount of \$424.20 and the filing fee. The landlord has also requested an order of possession effective two days after service on the tenant.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. I find that the landlord is entitled to a total of \$474.20 which consists of utilities for September, October, and November and the filing fee. I grant the landlord a monetary order in the amount of \$474.20. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant and landlord signed a mutual agreement to end the tenancy on November 22, 2008. Pursuant to section 44 (1) (c), of the *Residential Tenancy Act* I am issuing a formal order of possession effective two days after service on the tenant. This Order may be filed in the Supreme Court for enforcement.

Conclusion

I grant the landlord a monetary order in the amount of **\$474.20** and an order of possession effective two days after service on the tenant.

Dated December 12, 2008.

Dispute Resolution Officer