



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

Some documentary evidence and written arguments has 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

This is a request for an Order of Possession based on a Notice to End Tenancy for non-payment of rent, and a request for a monetary order for outstanding rent. The applicant is also requesting recovery of the filing fee.

Background and Evidence

The applicant testified that:

- The tenant failed to pay the October 2011 rent in the amount of \$950.00 and therefore on October 8, 2011 he personally served him with a 10 day Notice to End Tenancy for non-payment of rent.
- To date the tenant has failed to vacate the rental unit or pay the outstanding rent, and now the November 2011 rent of \$950.00 is also past-due.

The applicant is therefore requesting an Order of Possession for as soon as possible and an order for the outstanding rent plus his filing fee.

The respondent testified that:

- He has refused to pay the rent because the landlord has refusing to deal with a mould issue he has had in the rental unit.

- The bottom of his very expensive beanbag bed became covered in mould while sitting in the rental unit, and he believes the landlord should be paying for replacing the bed.

Analysis

The tenant did not have the right to withhold the rent without first applying for dispute resolution and getting an order from a dispute resolution officer.

In this case the tenant took it upon himself to withhold the rent to try and force the landlord to deal with an alleged mould issue; however by withholding the rent without having the right to do so he has put his tenancy in jeopardy.

Since the tenant did not have the right to withhold the rent I uphold landlords Notice to End Tenancy and this tenancy ends pursuant to that notice.

It is also my decision that the landlord does have the right to an order for the outstanding October 2011, and November 2011 rent, totalling \$1900.00

I also allow the landlords claim for recovery of the \$50.00 filing fee.

Conclusion

I have issued an Order of Possession that is enforceable two days after service on the tenant.

I have also issued a monetary order in the amount of \$1950.00

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 07, 2011.

Residential Tenancy Branch