



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, OPR

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, a request for a monetary order in the amount of \$2100.00, and a request for recovery of the filing fee.

Background and Evidence

The applicant testified that:

- He is no longer requesting an Order of Possession because the tenant has paid her December 2011 rent.
- The upstairs tenant at the rental property had been acting as his agent to collect the rent however she claims that the respondent did not pay any rent to her for the month of November 2011. When he went to collect the rent his agent told him that she did not have her rent because it had been stolen, and she did not have the applicants rent because it had not been paid.
- At this time therefore he is requesting an order for the November 2011 rent in the amount of \$1050.00, and recovery of the \$50.00 filing fee.

The respondent testified that:

- She paid her full rent for the month of November 2011 in the amount of \$1050.00 to the upstairs tenant/landlords agent.
- She does not have a receipt for the rent because the agent never gave receipts for any rent that has ever been paid.
- She does not believe that the agents own rent was stolen, and in fact she believes the agent has pocketed her rent as well.

Analysis

It is my decision that the applicant has not met the burden of proving that the respondent has not paid her rent for the month of November 2011.

The tenant has given sworn testimony that she paid her rent to the landlord's agent, and although landlord claims that his agent told him she did not receive the rent, the agent did not appear to give any direct testimony with regards to the rent.

Further since the upstairs tenant/agent has also failed to pay her own rent, I believe it is a real possibility that she has received this tenants rent and has failed to pass it onto the landlord.

Therefore I will not issue a monetary order against the respondents.

Conclusion

This application is dismissed.

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: December 14, 2011.

Residential Tenancy Branch