

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession, a monetary order request for unpaid rent and utilities, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend. The Landlord states that the Tenant was served with the notice of hearing and evidence documents in person on December 15, 2011. The Landlord has provided a statement from the witness, V.C. who attended the hearing to confirm that the Tenant was personally served with these documents. The Landlord is also submitting a photograph of the Tenant accepting the documents. As such, I find that the Tenant has been properly served with the notice of hearing and evidence package.

The Landlord stated during the hearing that the Tenant vacated the rental unit on January 3, 2012 and no longer requires an order of possession.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order for unpaid rent and utilities?

Background and Evidence

This Tenancy began on May 1, 2011 as shown in the submitted copy of the signed Tenancy Agreement. The current Landlord's took possession of the property in September of 2011. The monthly rent is \$1,150.00 payable on the 1st of each month and a security deposit of \$575.00 was paid.

The Landlord states that as soon as they took possession of the property from the previous owners, the Tenant failed to pay rent for September, October and November of 2011 at \$1,150.00 per month. The Landlord states that the Tenant is also in arrears for the agreed upon 45% share of the utilities which equal to \$120.00 per month for a total of \$360.00. The Landlord states that this was all indicated on the 10 day notice to end

tenancy for unpaid rent and utilities. The Landlord states that the Tenant failed to pay the rent or utilities. The Landlord is seeking total unpaid rent of \$4,600.00 for September to December of 4 months as indicated on the application. The Landlord is also seeking unpaid utilities for 4 months to equal \$480.00 at \$120.00 for each of the 4 months. The Landlord relies on the submitted documentary evidence and the signed tenancy agreement for the utilities. The Landlord has submitted documentary evidence of "dishonoured cheques" from the Tenant as well as invoices for utilities.

Analysis

I accept the Landlord's undisputed testimony and I find that the Tenant was served with a notice to end tenancy for unpaid rent. The Tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the Tenancy ended on the effective date of the notice.

Based upon the above facts, I find that the Landlord has established a claim for unpaid rent of \$4,600.00 and Utilities of \$480.00, totalling \$5,080.00. The Landlord is entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$575.00 security deposit in partial satisfaction of this claim and I grant the Landlord a monetary order under section 67 for the balance due of \$4,555.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$4,555.00.
The Landlord may retain the security deposit.

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: January 04, 2012.

Residential Tenancy Branch