



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, FF, LRE, MNDC, O, RR, MNR, MNDC

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord. Both files were heard together.

The tenant's application is a request for a Monetary Order \$5000.00, a request for an order for the landlord to make repairs, a request to suspend or set conditions on the landlord's right of entry, and a request to allow the tenant to reduce rent for repairs, services, or facilities agreed-upon but not provided. The tenants are also requesting an order for recovery of the \$50.00 filing fee.

The landlord's application is a request for a Monetary Order for \$4301.35 and a request for recovery of the \$50.00 filing fee.

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

Are the tenants entitled to a Monetary Order for \$5000.00.

Have the tenants established a need for a repair order, or an order setting conditions on the landlord's right of entry.

Have the tenants established a right to reduced rent.

Has the landlord established a monetary claims \$4301.35.

Background and Evidence

The tenants testified that:

- The landlord neglected to do repairs he promised over the full term of the tenancy and therefore they believe the rent should be reduced.
- The landlord also entered the property on four or more occasions without authority to do so and therefore they believe the landlord's right of entry should be restricted.
- The landlord also needlessly and fraudulently evicted them and therefore they believe the landlord should be paying them \$5000.00 compensation for their pain and suffering.

Landlord testified that:

- He denies all the tenants claims and in fact it appears the tenants just want to live in the rental property without paying rent.
- The tenants were evicted with a Writ of Possession from the court, and as a result he has had significant Bailiff costs and court costs.
- The tenants later got a stay of the writ possession after agreeing that they would vacate a the end of September 2013, but only on the provision that they paid the September 2013 rent. The September 2013 rent cheque was not honored by the bank and therefore the full September rent is still outstanding.
- He denies neglecting the property and in fact has provided evidence to show that he has done maintenance on the rental property.

He is therefore requesting a Monetary Order as follows:

Court costs for Writ of Possession	\$120.00
Bailiff costs	\$2426.85
Locksmith costs	\$154.50
September 2013 rent outstanding	\$1600.00
Filing fee	\$50.00
Total	\$4351.35

Analysis

It is my decision that I will not allow any of the tenants claim as the tenants have provided no evidence whatsoever in support their claims. Therefore it is just the tenant's

word against that of the landlords, and since the burden of proving a claim lies with the person making the claim, the tenants have failed to meet that burden of proof.

I will however allow the landlords full claim.

The landlords obtained an Order of Possession, as well as a Writ of Possession from the court and as a result have had significant costs in attempting to enforce the Writ of Possession.

The Writ of Possession was subsequently stayed when the tenants agreed to vacate the rental unit by September 30, 2013 and agreed to pay the September 2013 rent, however that stay was not in place until after the landlords had already incurred significant costs.

That stay of the Writ of Possession was also on the condition that the tenants pay the September 2013 rent, which they have failed to do and I therefore also allow the landlords request for an Order for that outstanding rent.

I also Order recovery of the landlords filing fee.

Conclusion

The tenants application is dismissed in full without leave to reapply.

I have allowed the landlords full claim and I've issued a Monetary Order in the amount of \$4351.35.

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: September 16, 2013

Residential Tenancy Branch

