



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, MNR, FF, CNR

Introduction:

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for:

- An order cancelling a Notice to End Tenancy, dated August 18, 2008, given for non-payment of rent pursuant to Section 46.

This hearing also dealt with a cross application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- A monetary order pursuant to Section 67;
- An order of possession to the landlord pursuant to Section 55;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

Issue(s) to be decided:

- Does the landlord have cause to end tenancy and obtain an order of possession?
- Is the landlord entitled to a monetary order for rent and to recover the cost of the fee to file this application?

Background and Evidence:

I find that the Notice to End Tenancy dated August 18, 2008 was served on the Tenant on August 18, 2008 by way of personal service with an effective date of August 28, 2008. The tenant filed an application for dispute resolution on August 25, 2008 and served it on the landlord in person on August 28, 2008. The landlord filed a cross

application for dispute resolution on September 05, 2008 and served it on the tenant by registered mail. Despite making the application for dispute resolution and having been served with the Notice of Arbitration, the tenant did not appear.

The landlord 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.

The landlord testified that the tenancy started on August 01, 2008 on a month to month basis. The monthly rent is \$ 475.00 due on the first of the month. The tenant issued a cheque to the landlord on August 01, 2008 in the amount of \$710.00 to cover the security deposit of \$ 235.00 and the rent for August. This cheque was returned to the landlord as there were insufficient funds in the tenant's account. After repeated attempts to collect rent in person, the landlord issued a ten day notice to end tenancy on August 18, 2008. The tenant is currently still occupying the suite and the landlord is making the following claim:

- \$ 475.00 Rent for August 2008.
- \$ 475.00 Rent for September 2008
- \$ 50.00 The fee for filing this application.
- An order of possession effective two days after service on the tenant.

Analysis

Based on the undisputed testimony of the Landlord, I accept his affirmed evidence in respect of the claim. I find that the landlord is entitled to rent for August and September and is also entitled to the cost of filing this application. Accordingly, I grant the landlord an order under section 67 for the amount of \$ 1000.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I find that the landlord is entitled to an Order for Possession. There is outstanding rent. The Tenant made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy but failed to attend the hearing. In these situations, the *Residential*

Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service. The Order may be filed in the Supreme Court for enforcement.

Conclusion

I will issue the landlord the following orders:

- A monetary order in the amount of \$ 1000.00.
- An order of possession effective two days after service on the tenant.

Dated September 22, 2008.