

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

Introduction

This hearing dealt with an 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.

Background and Evidence

I find that the Notice to End Tenancy dated August 20, 2008 and effective on August 30, 2008 was served on the Tenant on August 20, 2008 by way of personal service and the Notice of Hearing package dated August 27, 2008 was served on the tenant on August 30, 2008 by way of personal service.

Despite 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 in February, 2008. The monthly rent is \$850.00 payable on the first of each month. During the hearing the landlord stated that the tenant made some payments towards the outstanding rent. On September 01, 2008,

the tenant did some work for the landlord that was valued at \$210.00 and applied to the outstanding rent. On the following dates in September, 03, 13, 16, 18, and 25, the tenant made payments of \$ 50.00, \$100.00, \$ 400.00, \$ 200.00 and \$ 220.00 respectively for a total of \$ 1180.00 (inclusive of \$210.00 for work done).

The tenant owes rent as follows:

- \$850.00 for August
- \$850.00 for September

The landlord is requesting the following:

- A monetary order in the amount of \$ 520.00 which is the balance of rent owed.
- A monetary order in the amount of \$ 50.00 which is the fee to file 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 for a monetary order in the amount of \$ 520.00. I also find that the landlord is entitled to \$50.00 to recover the cost of filing this application. Pursuant to section 67, I am issuing a formal order for payment in the amount of \$ 570.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I also find that the landlord is entitled to an Order for Possession. The Tenant did not pay his rent within five days of receiving the notice to end tenancy nor did he make application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. 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 on the tenant. The Order may be filed in the Supreme Court for enforcement.

Conclusion

I find that the landlord has established a claim for a monetary order and an order of possession and accordingly I will issue the following orders:

- A monetary order in the amount of \$570.00.
- An order of possession effective two days after service on the tenant.

Dated September 24, 2008.