



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 pursuant to Section 55;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

The notice of hearing dated November 17, 2008 was served to the tenant on November 19, 2008, by handing it to the tenant. Despite having been served the notice of hearing, the tenant did not show up for the hearing. The landlord attended the hearing and 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.

Issues to be decided

- Is the landlord entitled to an order of possession for unpaid rent?
- Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

Background and Evidence

I find that the Notice to End Tenancy dated November 04, 2008, with an effective date of November 14, 2008, was served on the Tenant on November 04, 2008 by handing it to him. The landlord testified that the tenancy started on June 01, 2007. The monthly rent is \$1300.00 due in advance on the first day of the month. The landlord has submitted into evidence, five notices to end tenancy for non payment of rent which were served on the tenant at various times, through the term of the tenancy. The landlord stated that the tenant would eventually pay rent and he would cancel the notice. The tenant failed to pay rent for November and the landlord issued a ten day notice to end tenancy. When the tenant received the notice of this hearing, he paid rent for

November on November 29, 2008. The tenant failed to pay rent for December, but on December 03, 2008, he paid the landlord \$400.00 towards his rent. The landlord accepted rent, but did not reinstate the tenancy and is applying for an order of possession effective two days after service on the tenant. The landlord is also claiming a monetary order in the amount of \$950.00 which consists of the recovery of his filing fee and the balance of rent for December as the tenants are still in occupation of the rental unit.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. I find that the landlord is entitled to a total of \$950.00. Accordingly, I grant the landlord a monetary order in this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant received the notice to end tenancy for unpaid rent, on November 04, 2008 and 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 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 grant the landlord a monetary order in the amount of **\$950.00** and an order of possession effective two days after service on the tenant.

Dated December 05, 2008.

Dispute Resolution Officer