



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR, MNSD, FF.

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- A monetary order for rent owed by the tenant, pursuant to Section 67;
- A monetary order to retain the security and pet deposits in partial satisfaction of the claim, pursuant to Section 38;
- 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 ten day notice to end tenancy dated November 14, 2008 was served to the tenant on November 14, 2008, by posting it on the front door. Both parties attended the hearing and were 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 notice to end tenancy valid?
- 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 and to retain the security and pet deposits in partial satisfaction of this claim?

Background and Evidence

The landlord testified that the tenancy started on November 01, 2007. The monthly rent is \$4600.00 due in advance on the first day of the month. On September 18, 2007, the tenant paid a security deposit of \$2300.00 and a pet damage deposit of \$1000.00.

The tenant failed to pay rent for November and was served a ten day notice to end tenancy effective November 28, 2008. The tenant did not dispute the fact that rent for the months of September, October, November and December was owed to the landlord.

The landlord is applying for an order of possession and a monetary order in the amount of \$18,425.00 which consists of rent for four months and \$25.00 for a returned rent cheque.

Analysis

The tenant received the notice to end tenancy for unpaid rent, on November 14, 2008 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant 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 December 31, 2008. This Order may be filed in the Supreme Court for enforcement.

Based on the sworn testimony of both parties, I accept the landlord's evidence in respect of the claim. I find that the landlord is entitled to a total of \$18,425.00 and is also entitled to recover the filing fee in the amount of \$100.00. I order that the landlord retain the security deposit and pet damage deposit and accrued interest of \$3361.89 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$15,163.11. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$15,163.11** and an order of possession effective on or before 1:00pm on **December 31, 2008**.

Dated December 16, 2008.

Dispute Resolution Officer