

Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

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.

I find that the notice to end tenancy for non payment of rent, dated November 04, 2008 was served on the Tenant on November 04, 2008 by posting it on his front door. The notice of hearing dated November 20, 2008 was served to the tenant on November 22, 2008, by registered mail. 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

The landlord testified that the tenancy started on September 01, 2008. The monthly rent is \$950.00 due in advance on the first day of the month. The tenant failed to pay rent for the months of October, November and December and is currently in occupation of the rental suite.

The landlord stated that the tenant owed a total of \$2850.00 and on or about December 02, 2008; the tenant paid \$600.00 towards this debt. The landlord is requesting a monetary order in the amount of \$2300.00 which consists of \$2250.00, which is the

remainder of the debt owed by the tenant and \$50.00 for the filing fee. The landlord has also requested an order of possession effective two days after service on the tenant.

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 \$2300.00. 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 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 grant the landlord a monetary order in the amount of **\$2300.00** and an order of possession effective two days after service on the tenant.

Dated December 08, 2008.

Dispute Resolution Officer