



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, 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 unpaid rent, pursuant to Section 67;
- An order of possession, pursuant to Section 55;
- An order to retain the security deposit in partial satisfaction of the monetary claim, pursuant to Section 38;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

I am satisfied that the notice to end tenancy for non payment of rent, dated December 12, 2008 was served on the tenant on December 19, 2008 in person and the notice of hearing dated December 31, 2008 was served on the tenant on January 02, 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, retain the security deposit and recover the filing fee?

Background and Evidence

The landlord testified that the tenancy began on August 01, 2008. The monthly rent is \$1250.00 and the tenant paid a security deposit of \$1250.00 on August 01, 2008.

The tenant paid partial rent for the months of November and December 2008 and owes the landlord \$625.00 for each month. The tenant also failed to pay rent for January

2009 on January 01, 2009 and is currently in occupation of the rental suite. The landlord stated that the tenant owed \$2500.00 in rent. However, on January 07, 2009, the tenant paid the landlord \$1000.00 toward this debt and the landlord issued a receipt for use and occupancy only. The landlord is applying for an order of possession and a monetary order in the amount of \$1500.00 which consists of the balance of the rent that is owed to the landlord. The landlord has also applied for filing fee of \$50.00.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on December 19, 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.

I also find that the landlord is entitled to \$1550.00 for unpaid rent and the filing fee. I order that the landlord retain the security deposit and interest of \$1257.84 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 \$292.16. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant and a monetary order in the amount of **\$292.16**.

Dated January 22, 2009.