



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:

- An order of possession, pursuant to Section 55;
- A monetary order for unpaid rent, pursuant to Section 67;
- An order to retain the security deposit, pursuant to Section 38;
- An order to recover the cost of the filing fee, pursuant to Section 72.

The notices to end tenancy for non payment of rent, dated December 02, 2008 and January 03, 2009 were served on the tenant on December 02, 2008 and January 03, 2009, in person. The notice of hearing dated January 08, 2009 was served on the tenant on January 11, 2009, in person. 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?
- 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 started on June 01, 2001. The monthly rent is \$1000.00 due in advance on the first day of the month. At the start of the tenancy, the tenant paid a security deposit in the amount of \$500.00. The tenant paid partial rent in instalments and as of January 01, 2009, owed the landlord \$4,500.00.

Since then, both parties came to an agreement which allowed the tenancy to continue on condition that the tenant paid \$400.00 on the Friday of each week until the current

debt of \$3,700.00 is paid off. The landlord has withdrawn the landlord's application to retain the security deposit and is asking for an order of possession effective two days after service on the tenant. The landlord stated that the order of possession would only be served on the tenant in the event that the tenant failed to pay the agreed upon instalment of \$400.00 each week.

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 notices to end tenancy for unpaid rent, on December 02, 2008 and January 03, 2009. The tenant did not pay all the outstanding 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 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 \$3750.00 for unpaid rent and the filing fee. I order that the tenant pay the landlord as per the agreement made by both parties. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$3750.00. 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 **\$3750.00**.

Dated February 10, 2009.

Dispute Resolution Officer