



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 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.

The notice to end tenancy for non payment of rent, dated January 05, 2009 was served on the Tenant on January 05, 2009, in person. The notice of hearing dated January 14, 2009 was served on the tenant on January 15, 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 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 started on December 17, 2008 and the tenant paid a security deposit of \$525.00 on that day. The monthly rent is \$1050.00 due in advance on the first day of the month.

The tenant failed to pay rent for January and February 2009 and is currently in occupation of the suite. The tenant was served the notice to end tenancy on January

05, 2009 and sometime after January 15, 2009 and prior to the hearing; the tenant paid the rent for both months but was short \$150.00. The landlord is applying for an order of possession effective February 28, 2009 and a monetary order in the amount of \$200.00 which consists of \$150.00 for unpaid rent and \$50.00 for the filing fee.

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 January 05, 2009 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 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 February 28, 2009. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$200.00 for unpaid rent and the filing fee. I order that the landlord retain this amount from the security deposit.

Conclusion

I grant the landlord an order of possession effective on or before 1:00pm on **February 28, 2009**. The landlord is entitled to **\$200.00** and may retain this amount from the security deposit.

Dated February 17, 2009.

Dispute Resolution Officer