



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, MNDC, 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 rent owed by the tenant, pursuant to Section 67;
- An order to recover the cost of filing this application, pursuant to Section 72.

The notice to end tenancy dated January 08, 2009 was served on the tenant, by posting it on the front door of the rental unit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the 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 an order to recover unpaid rent and the filing fee?

Background and Evidence

The tenant testified that the tenancy started on November 01, 2008. The monthly rent is \$1950.00 due in advance on the first day of the month. The landlord stated that the tenant owes rent in the amount of \$300.00 for December 2008, has not paid rent since and continues to reside in the rental unit. The landlord applied for arbitration on January 19, 2009 and later amended her application to include full rent for December and was required to pay an additional \$50.00 for the filing fee. However at the hearing, the landlord agreed that the tenant owed \$300.00 for December rent and hence the total claim was under \$5000.00, which requires a filing fee of \$50.00.

The landlord is applying for an order of possession and a monetary order for:

1.	Balance owed from December rent	\$300.00
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2.	January rent	\$1950.00
3.	February rent	\$1950.00
4.	Utilities	\$190.00
5.	NSF fees	\$50.00
6.	Filing fee	\$50.00
	Total	\$4490.00

Analysis

The tenant received the notice to end tenancy for unpaid rent, on January 08, 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 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. 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 \$4490.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. 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 **\$4490.00**.

Dated February 26, 2009.

Dispute Resolution Officer