



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 rent owed by the tenant, pursuant to Section 67 and to retain the security deposit in partial satisfaction of the claim, pursuant to Section 38;
- An order to recover the cost of filing this application, pursuant to Section 72.

Both parties attended the hearing and were 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 and to retain the security deposit in partial satisfaction of this claim?

Background and Evidence

The landlord testified that the tenancy started on March 01, 2001. The monthly rent is \$466.00 due in advance on the first day of the month. The tenant owed rent in the amount of \$12.00 for December 2008 and failed to pay rent on January 01, 2009. On January 03, 2009 the landlord issued a notice to end tenancy by posting the notice on the front door of the rental unit. The tenant has not paid rent for February 2009, and continues to occupy the rental unit. The tenant agreed that rent was owed in the amount of \$12.00 for December 2008, \$466.00 for January 2009 and \$466.00 for February 2009, for a total of \$944.00.

The landlord is applying for an order of possession and a monetary order in the amount of \$994.00 which consists of the balance of rent owed by the tenant and the filing fee of \$50.00.

Analysis

The tenant received the notice to end tenancy for unpaid rent, on January 03, 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 \$994.00. I order that the landlord retain the security deposit and interest of \$212.51 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 \$781.49. 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 **\$781.49**.

Dated February 26, 2009.

Dispute Resolution Officer