

Decision

Dispute Codes:

OPR MNR MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord seeking an Order for Possession and a Monetary Order for unpaid rent, money owed or compensation for damage or loss under the *Act*, and recovery of the filing fee.

Service of the hearing documents was done via registered mail on March 13, 2009. The Canada Post receipt number was provided in the landlord's testimony. The tenant was deemed to be served the hearing documents on March 18, 2009, the fifth day after they were mailed pursuant to section 89 of the *Act*.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in written and documentary form, and make submissions to me.

The tenant did not attend the hearing despite being served the hearing documents via registered mail.

Issue(s) to be Decided

The issues to be decided based on the testimony and the evidence are:

- Whether the landlord is entitled to an Order of Possession pursuant to Section 55 of the *Residential Tenancy Act*
- Whether the landlord is entitled to monetary compensation under Section 67 of the *Act* for unpaid rent or utilities

- Whether the landlord is entitled to monetary compensation under Section 67 of the *Act* for money owed or compensation for damage or loss under the *Act*
- Whether the landlord is entitled to monetary compensation under section 72(1) of the *Act* to recover filing fee from the tenant for the cost of this application.

Background and Evidence

The tenancy was a month to month tenancy which commenced on approximately September 30, 2007. The rent was \$350.00 per month and the tenant did not pay a security deposit. This tenancy was based on a verbal agreement between the tenant and the father of the current landlord. The registered owner of the property is a business, which was previously owned by the current landlord's father, who passed away October 23, 2007.

The landlord provided verbal testimony stating that the hearing documents were sent to the tenant on March 13, 2009 via registered mail. Canada Post receipts numbers were supplied.

The landlord testified that the tenant failed to pay rent for February 2009 and a 10 Day Notice to End Tenancy for Unpaid Rent was issued February 26, 2009. The two pages of the 10 Day Notice was posted on the tenant's door on February 26, 2009 and deemed to have been served on March 1, 2009.

The landlord stated that he did not submit page two of the 10 Day Notice to End Tenancy into evidence as he felt it was only information for the tenant and not required for evidence for the purpose of the dispute resolution hearing.

The landlord advised that the tenant currently owes for February and March 2009 rent and the landlord is seeking an Order of Possession.

The landlord stated that he has not seen the tenant since March 7, 2009 and that the tenant would not speak to the landlord when questioned about the rent. The landlord believes the tenant may have moved, leaving all of his possessions in the house and not returning the keys.

The landlord testified that the rental unit needs a lot of repairs of which he has not commenced, so he has withdrawn his monetary claim for compensation for damage or loss under the *Act*.

Analysis

Order of Possession - I allow the landlord's testimony that he served both pages of the 10 Day Notice to End Tenancy for Unpaid Rent by posting it on the tenant's door. I find in favor of the landlord, as the tenant did not pay the rent or apply to dispute the Notice to End Tenancy within five days, and grant the Order of Possession, pursuant to Section 46 (1) of the *Residential Tenancy Act*.

Unpaid rent - \$700.00. The landlord is claiming for unpaid rent for February and March 2009 at \$350.00 per month. I find that this claim is allowed under Section 26 of the *Residential Tenancy Act*.

Filing Fee - \$50.00 I find that the landlord has succeeded in large and that he should recover the filing fee from the tenant pursuant to section 72(1) of the *Act*.

Conclusion

The landlord has withdrawn his monetary claim for compensation for damage or loss under the *Act*.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I find in favor of the landlord's monetary claim for unpaid rent and recovery of the filing fee as follows:

Unpaid Rent and late payment fees	\$700.00
Recovery of Filing Fee	50.00
TOTAL AMOUNT DUE TO THE LANDLORD	\$750.00

I hereby grant the landlord a Monetary Order under sections 67 and 72(1) of the *Residential Tenancy Act* of \$750.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The landlord's copy of this decision is accompanied by the Order of Possession and the Monetary Order. Both Orders must be served on the respondent.

March 26, 2009
Date of Decision

Dispute Resolution Officer