

# 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 filing fee pursuant to section 72.

The notice of hearing dated April 17, 2009 was served on the tenant on April 20, 2009, in person, at the dispute address. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **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 February 01, 2008. The monthly rent is \$800.00 due in advance on the first of each month. The tenant paid a security deposit in the amount of \$400.00.

The tenant failed to pay rent for April and on April 10, 2009, the landlord served the tenant in person, with a ten day notice to end tenancy. On April 21, 2009 the tenant paid \$400.00 towards rent for April and paid the balance of \$400.00 on April 28, 2009. The landlord issued receipts for use and occupancy only.

The landlord stated that the tenant has not paid rent for May 2009 and continues to occupy the rental unit.

The landlord is applying for an order of possession effective two days after serving it on the tenant and a monetary order in the amount of \$850.00 which consists of outstanding rent for April and the filing fee of \$50.00.

### **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 April 10, 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 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 \$800.00 for unpaid rent and \$50.00 for the filing fee. I order that the landlord retain the security deposit of \$400.00 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 \$450.00. 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 for **\$450.00**.

Dated May 26, 2009.

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Dispute Resolution Officer