

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, CNR, FF.*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for an order of possession pursuant to section 55 and a monetary order for the recovery of rent for the months of March, April and May 2009, pursuant to Section 67 and for the recovery of the filing fee pursuant to section 72. The landlord also applied to retain the security deposit in partial satisfaction of his monetary claim, pursuant to section 38.

The tenant applied to cancel the notice to end tenancy, pursuant to section 46.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession and to recover unpaid rent?

Background and Evidence

Both parties agreed that the tenancy started on December 11, 2005. Rent is currently \$1132.00 payable on the first of each month. Prior to the start of the tenancy, the tenant paid a security deposit of \$525.00.

The landlord stated that the tenant failed to pay rent for March 2009. On March 16, 2009, the landlord served the tenant with a ten day notice to end tenancy. The tenant is currently in occupation of the rental unit and agreed that he owed the landlord rent for the months of March, April and May 2009, in the amount of \$3396.00.

The tenant stated that he fell on hard times financially and therefore was unable to make rent on time. However, the tenant added that he was able to catch up on rent by May 19, 2009 and requested the landlord to allow the tenancy to continue.

The landlord stated that he was unable to allow the tenancy to continue due to the history of late rent payments by the tenant. The landlord has applied for an order of possession effective two days after service on the tenant and a monetary order for three months rent (\$3396.00) and the filing fee (\$50.00).

Analysis

Section 26 of the *Act*, states that a tenant must pay rent when it is due under the tenancy agreement. The tenant agreed that he owes \$3396.00 in rent. The notice to end tenancy is upheld and the tenant's application to cancel the notice is dismissed. Pursuant to section 55, I am issuing an 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 his monetary claim. I find that the landlord is entitled to a total of **\$3396.00** which is the amount of rent for the months of March, April and May 2009. The landlord has proven his case and therefore is entitled to recover the filing fee of **\$50.00**.

I order that the landlord retain the security deposit of **\$525.00** and accrued interest of **\$18.57** 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 **\$2902.43**. 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 **\$2902.43**. The tenant's application is dismissed.

Dated May 13, 2009.

Dispute Resolution Officer