

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 an order of possession and for a monetary order for unpaid rent, parking fees, late fees and the filing fee. The landlord also applied to retain the security deposit. 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? Is the landlord entitled to a monetary order to recover unpaid rent, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on March 01, 2008. The monthly rent is \$730.00 due in advance on the first of each month. The tenant was required to pay an additional \$25.00 for parking. A clause in the tenancy agreement stated that upon late payment of rent, the tenant would be charged a late fee of \$25.00.

The landlord stated that the tenant failed to pay rent for several months and on May 08, 2009, the landlord served the tenant with a ten day notice to end tenancy. The landlord stated that as of the date of the hearing, the tenant owed the following:

1.	Balance of rent for February 2009	\$305.00
2.	Late fees for February and May 2009	\$50.00
3.	Parking for March 2009	\$25.00
4.	Rent for March to June 2009 @ \$730.00	\$2920.00
5.	Rent for July 2009	\$757.01
6.	Filing fee	\$50.00
7.	Total	\$4,107.01

The landlord is applying for an order of possession effective July 18, 2009 and a monetary order in the amount of \$4,107.01.

Analysis

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on May 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 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 July 18, 2009. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$4,107.01 for unpaid rent, late fees, parking and the filing fee. I order that the landlord retain the security deposit of \$365.00 and accrued interest of \$4.58 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 \$3,737.43. 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 on or before 1:00 p.m. on July 18, 2009 and a monetary order for **\$3,737.43**.

Dated July 08, 2009.
