

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, MNDC, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for rental arrears and the filing fee.

The notice of hearing dated May 28, 2009 was served on the tenant on June 01, 2009, by registered mail. The landlord filed a tracking number. 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 and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on February 01, 2008. The monthly rent is \$1100.00 due in advance on the first of each month. The landlord allowed the tenant to pay rent in two instalments of \$550.00 each, on the first and fifteenth of each month.

The first instalment for the first month of the tenancy (February 2009) was returned to the landlord for insufficient funds. The tenant paid rent for the balance of February but failed to replace the bounced cheque for the first half of February. The tenant also failed to pay rent for May, June and July and continues to occupy the rental unit. On May 16, 2009, the landlord served the tenant with a ten day notice to end tenancy.

The landlord has applied for an order of possession and is claiming the above rental arrears in the amount of \$3,850.00 plus \$50.00 for the filing fee.

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 May 16, 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 has established a claim for a total of \$3,850.00 for unpaid rent. Since the landlord has proven his case, I find that he is also entitled to \$50.00 for the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$3,900.00. 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 in the amount of **\$3,900.00**.

Dated July 10, 2009.

Dispute Resolution Officer