



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes:

OPR, OPC, CNR, MNR, MNS, 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 and for a monetary order for unpaid rent. The landlord also applied to retain the security deposit in partial satisfaction of his monetary claim. The tenant applied for an order to cancel the notice to end tenancy. Both parties applied for the recovery of the filing fee.

The landlord served both the tenants the notice of hearing by registered mail. One of the tenants represented both respondents. The 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 a monetary order for unpaid rent?

Background and Evidence

This month to month tenancy started on August 01, 2001. Rent is currently \$632.00 due on the first day of each month. Prior to moving in the tenant paid a security deposit of \$275.00.

Landlord's Application

The landlord stated that the tenant owed rent for the months of March to July 2009 for a total of \$2210.00. On June 03, 2009, the landlord served the tenant with a ten day notice to end tenancy. The landlord has applied for an order of possession effective two days after service on the tenant and a monetary order for unpaid rent (\$2210.00) plus the filing fee (\$50.00).

Tenant's Application

The tenant acknowledged that he owed the landlord \$2210.00 in unpaid rent. He stated that the reason for not paying rent was that the landlord did not maintain the suite in a satisfactory condition. The tenant has applied to cancel the notice to end tenancy and to recover the filing fee.

Analysis

The tenant received the notice to end tenancy for unpaid rent, on June 03, 2009 and did not pay rent within five days of receiving the notice to end tenancy. The tenant stated that the landlord did not maintain the rental unit in a satisfactory condition.

Section 26 of the *Residential Tenancy Act*, states that a tenant must pay rent when it is due under the tenancy agreement whether or not the landlord complies with the *Act*, the *Regulations* or the *Tenancy Agreement*. Since the tenant has not paid rent, 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 find that the landlord has established a claim of \$2210.00 for unpaid rent and \$50.00 for the filing fee. I order that the landlord retain \$275.00 from the security deposit plus \$35.85 in accrued interest in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance of \$1949.15. 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. I also grant the landlord a monetary order in the amount of **\$1949.15**.

The tenant must bear the cost of filing his application.

Dated July 06, 2009.

Dispute Resolution Officer