

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

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. At the start of the hearing the landlord requested that his application be amended to include the recovery of the filing fee and to retain the security deposit in partial satisfaction of his monetary claim.

The notice of hearing dated June 18, 2009 was served on the tenant on June 21, 2009, by posting the notice on the front door, in the presence of a witness. 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, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on April 01, 2009 for a fixed term of twelve months. The monthly rent is \$1,250.00 due in advance on the first of each month. The tenant paid a security deposit of \$625.00.

The landlord testified that the tenant failed to pay rent for May and June 2009. On June 03, 2009, the landlord served the tenant with a ten day notice to end tenancy. The tenant continues to occupy the rental unit and in addition owes rent for July. The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$3,800.00 which consists of rent for May, June and July (\$3,750.00) and the filing fee (\$50.00).

Analysis

Based on the 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 June 03, 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 find that the landlord is entitled to \$3,750.00 for unpaid rent for May, June and July 2009. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain the security deposit of \$625.00 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 \$3,175.00. 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 **\$3,175.00**.

Dated July 28, 2009.

Dispute Resolution Officer