



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, (FF)

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a Monetary Order to recover unpaid rent. At the outset the landlord requested an amendment to his application to recover the filing fee and increase his claim for unpaid rent to include the month of September. I have allowed this amendment.

The landlord served the tenant with a copy of the Application and Notice of Hearing in person on August 15, 2009. I find that the tenant was properly served pursuant to s. 89 of the *Residential Tenancy Act(Act)* with notice of this hearing and the hearing proceeded in the tenants' absence.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Is the landlord entitled to an Order of Possession for unpaid rent?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?

Background and Evidence

This tenancy started on May 01, 2009. The rent for this unit is \$1,100.00 per month due on the 1st of each month. The tenant paid a security deposit of \$500.00 on May 01, 2009.

The landlord testifies that the tenant did not pay the total amount of rent due for July, 2009.

There is a balance owing of \$600.00. The landlord issued a 10 Day Notice to End the Tenancy

Residential Tenancy Branch
Ministry of Housing and Social Development

for unpaid rent on July 02, 2009. The landlord had made a mistake on the dates he put on the notice. He had put July 12, 2009 for both the move out day and the Notice day. However, the Notice was served on the tenant on July 02, 2009. Therefore I will accept that the Notice was written on July 02, 2009. This was given in person to the tenant and was deemed to have been served on the same day. The tenant had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on July 12, 2009. The tenant did not pay the outstanding rent or dispute the Notice within five days. Since that time the tenant has not paid rent for August or September, 2009 to the amount of \$2,200.00. The total amount of unpaid rent is now \$2,800.00.

The landlord has applied for an Order of Possession to take effect as soon as possible.

Analysis

The tenant did not appear at the hearing, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlord is entitled to recover rent arrears for July, August and September, 2009 of \$2,800.00 pursuant to s.67 of the *Act*.

As the landlord has been successful in this matter, he is also entitled to recover the \$50.00 filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlord will receive a monetary order for the balance owing as follows:

Outstanding rent for July, August and September, 2009	\$2,800.00
Total amount due to the landlord	\$2,850.00

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,850.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days** after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 29, 2009.

Dispute Resolution Officer