

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, 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 unpaid rent. At the start of the hearing, the landlord requested that his application be amended to include a monetary order for recovery of the filing fee.

The notice of hearing dated July 20, 2009 was served on the tenant in person on July 21, 2009. 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 July 01, 2008. The monthly rent is \$970.00 due in advance on the first of each month. A clause in the rental agreement states that the tenant will be required to pay a fee of \$25.00 upon late payment of rent. The tenant failed to pay rent for July 2009 and on July 10, 2009; the landlord served the tenant with a ten day notice to end tenancy.

The tenant also failed to pay rent for August and September and continues to occupy the rental unit. On August 30, 2009 the tenant paid \$1,000.00 towards his rental debt.

The landlord has applied for an order of possession effective September 15, 2009 and is claiming the above rental arrears as follows:

1.	Rent for July and August 2009	\$1,940.00
2.	Rent up to September 15, 2009	\$485.00
3.	Late fees for three months	\$75.00
4.	Filing fee	\$50.00
	Total	\$2,550.00
	Minus amount paid by tenant	\$1,000.00
	Balance	\$1,550.00

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 July 10, 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 September 15, 2009. 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 \$1,500.00 for unpaid rent and late fees. Since the landlord has proven his case, I find that he is entitled to the recovery of his filing fee of \$50.00. Accordingly, I grant the landlord an order under section 67 of the *Residential Tenancy Act* for \$1,550.00. 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 on or before 1:00p.m. on September 15, 2009 and a monetary order in the amount of **\$1,550.00**.

Dated September 04, 2009.

Dispute Resolution Officer