



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 and the filing fee.

The notice of hearing dated was served on the tenant on August 11, 2009 by registered mail. The landlord provided 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 May 01, 2008. The monthly rent is \$735.00 due in advance on the first of each month. The tenant failed to pay rent for July and on July 10, 2009 the landlord served the tenant with a ten day notice to end tenancy. This notice was served on the tenant by regular mail and in person by the resident manager.

The landlord has filed a statement of accounts to show that the tenant owed \$ 2,977.50 on August 04, 2009. Since then the tenant has paid some of this debt, and as of the date of the hearing, owes the landlord \$3012.50 which includes rent for September.

The landlord has applied for an order of possession effective two days after serving it on the tenant and for a monetary order in the amount of \$3,062.50.00 which consists of rental arrears (\$3012.50) and the filing fee (\$50.00).

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 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 \$3,012.50 for unpaid rent. Since the landlord has proven his case, I find that he is also entitled to the recovery of the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$3,062.50. 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 **\$3,062.50**.

Dated September 23, 2009.

Dispute Resolution Officer