

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

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, and the filing fee. The landlord also applied to retain the security deposit in satisfaction of his claim.

Since the tenancy has not yet ended and the landlord has reported some damage to the unit, the landlord agreed to make application for his claims for damage against the security deposit after the tenancy ends. Therefore, this hearing only dealt with the landlord's application for an order of possession and a monetary order for unpaid rent and the filing fee.

Both 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? Is the landlord entitled to a monetary order to recover unpaid rent, and the filing fee?

Background and Evidence

The tenancy started in September, 2009. The monthly rent is \$750.00 due in advance on the first of each month. The landlord stated that the tenant owed \$375.00 for December and on December 02, 2009, the landlord served the tenant with a ten day notice to end tenancy. The tenant also failed to pay \$375.00 for January 2010 and has not paid any rent for February 2010. The tenant agreed that she owed a total of \$750.00 in unpaid rent for December and January and has not paid any rent for February 2010.

The tenant stated that she withheld rent because the landlord had promised some repairs and failed to deliver. The landlord is applying for an order of possession effective February 15, 2010 and a monetary order in the amount of \$1,125.00 for unpaid rent and \$50.00 for the filing fee.

Analysis

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on December 02, 2010 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 February 15, 2010. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to a total of \$750.00 for unpaid rent for December 2009 and January 2010. The landlord is also entitled to half a month's rent for February and the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of 1,175.00. 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 on or before **1:00 p.m. on February 15, 2010** and a monetary order for **\$1,175.00**.

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: February 11, 2010.

Dispute Resolution Officer