



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

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 a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim.

The notice of hearing was served on the tenant on June 17, 2010 in person 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, retain the security deposit and recover the filing fee?

Background and Evidence

The landlord testified that the tenancy started on October 16, 2007. The monthly rent is \$1,000.00 due in advance on the first of each month. The tenant failed to pay rent for June and on June 02, 2010 the landlord served the tenant with a ten day notice to end tenancy. The tenant paid partial rent on June 14, 2010 and continues to occupy the rental unit. Since then the tenant has paid some of the unpaid rent, and as of the date of the hearing, owes the landlord \$1,600.00 which includes rent for August 2010.

The landlord also applied to be reimbursed for utilities but did not file any evidence to support her claim. 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 \$1,650.00 which consists of rental arrears (\$1,600.00) 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 June 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 two days after service. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord has established a claim of \$1,600.00 for unpaid rent. Since the landlord has proven her case, I find that she is also entitled to the recovery of the filing fee. I order that the landlord retain the security deposit of \$500.00 and accrued interest of \$9.10 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 \$1,140.90. 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 **\$1,140.90**. The landlord's claim for utilities is dismissed with leave to reapply.

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: August 11, 2010.

Dispute Resolution Officer