



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: *OPR, MNR, MNDC, MNSD, FF*

Introduction

This hearing dealt with an application by the Landlord 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 partial satisfaction of his monetary claim.

The notice of hearing was served on the tenant 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.

At the beginning of the hearing, the landlord requested that his application to retain the security deposit be withdrawn. At the landlord's request, this portion of the landlord's claim is dismissed with leave to reapply. Accordingly, this hearing only dealt with the landlord's application for an order of possession, a monetary order for unpaid rent and the filing fee.

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 on September 01, 2005. The rent is \$2,700.00 due on the 1st of the month. The tenant failed to pay rent for June. On June 04 the landlord served the tenant with a ten day notice to end tenancy. The tenant paid rent for June in instalments. The last instalment was paid on June 15. The landlord issued a receipt for use and occupancy only.

After receiving another ten day notice to end tenancy in July, the tenant paid rent in full. Again the landlord issued a receipt for use and occupancy only. The tenant is currently occupying the unit and has not paid rent for August 2010.

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 04, 2010 and did not pay full 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 is entitled to \$2,700.00 for unpaid rent for August 2010. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$2,750.00. 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 two days after service on the tenant and a monetary order in the amount of **\$2,750.00**

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: August 18, 2010.

Dispute Resolution Officer