

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. 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, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on October 15, 2007. The monthly rent is \$824.00 due in advance on the first of each month. The landlord stated that the tenant failed to pay rent for June and on June 03, 2010; the landlord served the tenant with a ten day notice to end tenancy. The landlord stated that since then, the tenant paid his rent in instalments and as of the date of the hearing, the tenant was caught up on rent and did not owe any money. The landlord reinstated the tenancy and is only applying for the recovery of 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 June 03, 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.

At the time that the landlord applied for dispute resolution, the tenant had not paid full rent. Therefore I find that despite reinstating the tenancy later on, the landlord had reason to apply for dispute resolution at the time the application was made. Therefore, I find that the landlord is entitled to the recovery of the filing fee.

Conclusion

The landlord may retain \$50.00 from the security deposit.

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 20, 2010.

Dispute Resolution Officer