

DECISION

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 for 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 on March 01, 2010. The monthly rent is \$1,750.00 due in advance on the first of each month. The rent does not include utilities. The landlord stated that the tenant was late paying rent for May, June and July. The landlord served the tenant with a ten day notice to end tenancy each of these months. In August, the tenant failed to pay rent and on August 02, the landlord served the tenant with another notice to end tenancy. The tenant paid rent for August on August 11, but failed to pay rent for September. Again, the landlord served the tenant with a ten day notice to end tenancy. As of the date of the hearing the tenant had not paid rent for September.

The landlord also stated that the tenant did not pay utilities and has filed an invoice showing that \$224.84 is outstanding for the prior three months. The landlord has applied for an order of possession effective two days after service on the tenant and a monetary order for rent and utilities.

The tenant agreed that he owed rent for September plus out standing utilities.

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 September 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 on the tenant. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$1,750.00 for unpaid rent for September 2010 plus \$224.84 for outstanding utilities. Since the landlord has proven his case, he is also entitled to \$50.00 for the filing fee. Accordingly, I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of 2,024.84. 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 for **\$2,024.84**.

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: September 28, 2010.

Dispute Resolution Officer