

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 June 14, 2010 for a fixed term ending May 14, 2011. The monthly rent is \$1,400.00 due in advance on the fourteenth of each month. The rental unit is an apartment located in a building complex. Shortly after the tenancy started, the tenant moved out and sublet the unit to her son.

The landlord received several notices from the strata council regarding complaints of the tenant's son's undesirable activities. The warning letters did not rectify the situation and the strata council imposed fines on the landlord. The landlord made several attempts to discuss the situation with the tenant without any resolution.

On October 04, 2010, the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. The landlord stated that the tenant paid rent on October 11, 2010 and she accepted rent with the understanding that the tenancy would end and the tenant would provide vacant possession of the unit to her.

The landlord is applying for an order of possession effective two days after service on the tenant and for the recovery of the filing fee. At the time of the hearing the tenant did not owe rent.

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 October 04, 2010 and did not pay rent within five days of receiving the notice to end tenancy.

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

Conclusion

I grant the landlord an order of possession effective **two days after service** on the tenant. 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: November 10, 2010.

Dispute Resolution Officer