



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 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 dated was served on the tenant on November 26, 2010, 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.

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 April 01, 1998. The monthly rent is currently \$1,165.00 due in advance on the first of each month. Prior to moving in, the tenant paid a security deposit of \$450.00.

The landlord stated that the tenant owed \$190.00 for September's rent and failed to pay rent for October, November and December 2010. On November 15, 2010 the landlord served the tenant with a ten day notice to end tenancy, in the presence of a witness. The landlord stated that the tenant is currently in the hospital and that his family has started moving out his belongings. The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$3,760.00 which consists of rental arrears for September to December.

Analysis

Based on the 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 November 15, 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 find that the landlord is entitled to \$3,710.00 for unpaid rent which also includes \$25.00 for a returned cheque. Since the landlord has proven his case, she is also entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain the security deposit of \$450.00 and accrued interest of \$57.04 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 \$3,252.96. 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 **\$3,252.96**.

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: December 15, 2010.

Dispute Resolution Officer