



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent and the filing fee.

The notice of hearing was served on the tenant on January 27, 2011, by registered mail. The landlord provided the 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 and the filing fee?

Background and Evidence

The tenancy started on November 15, 2010 for a fixed term of six months. The rent is \$688.00 payable on the first of each month. The tenant failed to pay rent for January and on January 06, 2011 the landlord served the tenant with a notice to end tenancy, by posting it on the front door to the rental unit, in the presence of a witness.

On February 01, 2011 the tenant paid rent for January and on February 07, 2011 the tenant paid rent for February. The landlord issued receipts for use and occupancy only. At the time of the hearing, the tenant did not owe rent.

The landlord has applied for an order of possession effective two days after service on the tenant and for the recovery of the filing fee of \$50.00

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 January 06, 2011 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 on or before February 28, 2011. The Order may be filed in the Supreme Court for enforcement.

Since the landlord has proven her case, she is entitled to the recovery of the filing fee. I allow the landlord to retain \$50.00 from the security deposit.

Conclusion

I grant the landlord an order of possession effective on or before 1:00 p.m. on February 28, 2011. 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: February 10, 2011.

Residential Tenancy Branch