

DECISION

Dispute Codes: OPR, MNR, MNSD, MNDC, 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, the cost of repairs and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his monetary claim.

The notice of hearing was served on the tenant on February 17, 2011 in person. 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, cost of repairs and the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on October 01, 2010. The monthly rent is \$900.00 and does not include utilities. The tenant is required to pay \$50.00 per month for utilities. The tenant paid a security deposit of \$450.00.

The tenant owed \$120.00 for January's rent and on January 03, 2011 the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. The tenant also failed to pay \$450.00 for February 2011. In addition the tenant failed to pay utilities for four months. At the time of the hearing, the tenant had not paid the balance owed for rent and utilities, yet continues to reside in the rental unit.

The landlord applied for \$100.00 to fix a window pane but did not file any evidence to support his claim. 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 \$820.00 which consists of rental arrears (\$770.00) and the filing fee (\$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 03, 2011 and did not pay full 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.

For lack of evidence, the landlord's claim for \$100.00 for repairs is dismissed. I find that the landlord is entitled to \$770.00 for unpaid rent. Since the landlord has proven his case, he 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 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 \$370.00. 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 **\$370.00**.

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 25, 2011.

Residential Tenancy Branch