



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

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.

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, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started in December 2008. The monthly rent is \$1,250.00 due in advance on the first of each month. The landlord stated that the tenant failed to pay full rent for January 2011 and as of February 01, 2011; the tenant owed \$1,274.76 in unpaid rent.

On February 02, 2011; the landlord served the tenant with a ten day notice to end tenancy. The landlord stated that since then, the tenant paid a portion of the rent in instalments on February 08 and February 16. As of the date of the hearing, the tenant owed \$201.44. The landlord is applying for an order of possession and a monetary order for rent owed plus the filing fee. During the hearing, the landlord also requested that he be granted a monetary order for the loss of income that he may incur for March.

The tenant did not dispute the amount of unpaid rent that she owed the landlord.

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 February 02, 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 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 \$201.44 for unpaid rent plus \$50.00 for the filing fee. I order that the landlord retain the amount of \$251.44 from the security deposit.

The landlord also requested a monetary order for rent for March. However, since the landlord has not yet incurred this loss and may find a tenant for a portion of March, I dismiss his application for loss of income for March, with leave to reapply.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain \$251.44 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 28, 2011.

Residential Tenancy Branch