

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 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 on November 01, 2010. The monthly rent is \$950.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$475.00.

The tenant failed to pay rent for February 2011 and on February 15, 2011; the landlord and tenant entered into a mutual agreement to end the tenancy effective February 26, 2011. The tenant did not move out on the agreed date and on February 28, 2011, the landlord made this application. The tenant also failed to pay rent for March and continues to occupy the rental unit.

The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$1,900.00 for unpaid rent for February and March plus \$50.00 for the filing fee. The landlord has also applied to retain the security deposit in partial satisfaction of his monetary claim.

Analysis

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant agreed that he had signed the mutual agreement to end the tenancy. Pursuant to section 44 (1)(c) of the *Residential Tenancy Act*, a tenancy ends if the landlord and tenant agree in writing to end the 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 agreement. 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 \$1,900.00 for unpaid rent plus \$50.00 for the filing fee. I order that the landlord retain the security deposit of \$475.00 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 \$1,475.00. 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 for **\$1,475.00**.

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: March 11, 2011.

Residential Tenancy Branch