



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: OPR, MNR, 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. 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, and the filing fee?

Background and Evidence

The tenancy started on April 01, 2010. The monthly rent is \$600.00 due in advance on the first of each month. The tenant failed to pay full rent for March and on March 02, 2011, the landlord served the tenant with a notice to end tenancy for non payment of rent. However, at the start of the hearing the landlord informed me that the tenant had paid rent in full for March but owed \$377.08 for April. The tenant did not dispute the landlord's testimony.

The landlord agreed to allow the tenancy to continue and also agreed to set up a payment plan with the tenant so that he could catch up on what he owed, by paying in instalments. The landlord has applied for an order of possession effective on April 15, 2011 and stated that he would serve it on the tenant in the event the tenant did not pay the outstanding rent as per the mutual arrangement that they would be making. The landlord has also applied for a monetary order in the amount of \$377.08.

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 March 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 April 15, 2011. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$377.08 for unpaid rent. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. 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 on or before **1:00 p.m. on April 15, 2011** and a monetary order for **\$377.08**.

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: April 04, 2011.

Residential Tenancy Branch