



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: *OPR, MNR, MND, MNSD, FF*

Introduction

This hearing dealt with an application by the Landlord 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 in partial satisfaction of her monetary claim.

The notice of hearing dated March 30, 2011 was served on the tenant on April 07, 2011, by registered mail. The landlord provided a 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.

At the beginning of the hearing, the landlord stated that the tenant had approached her with a payment plan to pay up all rent owed by May 05, 2011. The landlord has agreed to accept payments as per the plan. Since the tenancy may continue, the landlord withdrew her application to retain the security deposit in partial satisfaction of her claim.

Accordingly, this hearing only dealt with the landlord's application for an order of possession, a monetary order for unpaid rent and the filing fee.

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 February 01, 2011. The rent is \$850.00 due on the 1st of the month. A clause in the tenancy agreement requires the tenant to pay a late fee of \$25.00 if rent is not paid by the 1st of each month.

The tenant failed to pay rent for February. On February 04, 2011 the landlord served the tenant with a notice to end tenancy. The tenant did not pay rent and continues to occupy the rental unit.

The landlord has applied for an order of possession and for a monetary order for the following:

1.	Rent for February	\$718.32
2.	Late fee for February	\$25.00
3.	Rent for March	\$744.00
4.	Late fee for March	\$25.00
5.	Rent for April	\$744.00
	Total	\$2,256.32

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 February 04, 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 find that the landlord is entitled to \$2,256.32 for unpaid rent and late fees for the months of February, March and April. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the total amount of 2,306.32. 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 **\$2,306.32**.

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 20, 2011.

Residential Tenancy Branch