



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: OPR, MNR, MNDC

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. 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?

Background and Evidence

The tenancy started on November 01, 2007. The rent is subsidized and is geared according to the tenant's income. The tenant left Canada in November and returned in March. While she was away, she was required to provide supporting documentation for the calculation of her rent and failed to do so. Therefore the subsidy did not apply and the tenant was required to pay full rent. The tenant failed to pay full rent for January and on January 13, 2011, the landlord served the tenant with a ten day notice to end tenancy. The tenant failed to contact the landlord and on February 10, 2011, the landlord served the tenant with a second notice to end tenancy for non payment of rent.

The tenant stated that she has left the country for the last three years without a problem and therefore she was not aware of any time limits that she was required to abide by. In addition, she stated that she went to live abroad because of a health condition and for this reason was not fit enough to return home earlier.

At the time of the hearing, the tenant owed \$3,017.00 in rent. The landlord filed a ledger to confirm this amount. The landlord has applied for an order of possession effective April 30, 2011 and for a monetary order in the amount of \$3,017.00.

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 January 13, 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 30, 2011. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$3,017.00 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 30, 2011** and a monetary order for **\$3,017.00**.

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: April 21, 2011.

Residential Tenancy Branch