



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, MNR, 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 his monetary claim.

The notice of hearing was served on the tenant on April 02, 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 hearing, the landlord withdrew his claim to retain the security deposit. Accordingly, this portion of the landlord's claim is dismissed with leave to reapply.

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 December 01, 2008. The rent is \$1,700.00 due on the 1st of the month and does not include utilities. The tenant started falling back on rent since October 2010 and as of the date of the hearing, the tenant owed \$4,976.54. On March 24, 2011 the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. The tenant did not dispute the notice, nor did the tenant pay the outstanding rent. The tenant continues to occupy the rental unit and now owes rent (\$1,700.00) and utilities (\$177.80) for June 2011, in addition to the above amount.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order for \$6,854.34.00 which consists of unpaid rent including rent plus utilities for the current month of June. The landlord is also applying for the recovery of the filing fee of \$100.00.

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 March 24, 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 \$6,854.34.00 for unpaid rent. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the total of \$6,954.34. 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 **\$6,954.34**.

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: June 10, 2011.

Residential Tenancy Branch