



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession for unpaid rent, a Monetary Order to recover unpaid rent and for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*. The landlord also seeks an Order to keep all or part of the security deposit and to recover the cost of the filing fee.

At the hearing the landlord stated that she served the tenant with notice of this hearing by posting the hearing documents to the tenants' door on June 03, 2011. As the landlord has applied under section 55 of the *Act* for an Order of Possession I accept that the hearing documents were served in accordance with section 89 (2) of the *Act* for the Order of possession; However, in order to deal with the landlords application for a Monetary Order she must serve the tenant either in person or by registered mail. Therefore I am only prepared to hear the landlords application for an Order of Possession and to recover her filing fee at the hearing today and the remainder of the landlords application is dismissed with leave to reapply.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?

Background and Evidence

The landlord testifies that this month to month tenancy started on April 01, 2011. Rent for this unit is \$550.00 per month and is due on the seventh day of each month. The tenant paid a security deposit of \$110.00 on April 07, 2011.

The landlord testifies that the tenant did not pay rent for May, 2011 on the day it was due. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent on May 10, 2011. This was handed to the tenant in person on this date. This Notice states that the tenant owes rent for May, 2011 of \$550.00. The tenant had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on May 20, 2011. The landlord testifies that the tenant did not pay the outstanding rent and since that time the tenant has failed to pay rent for June 2011.

The landlord seeks an Order of Possession to take effect as soon as possible and to recover her filing fee paid for this application.

Analysis

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession pursuant to section 55 of the *Act*.

As the landlord has been successful with this section of her application heard today I find she is entitled to recover the **\$50.00** filing fee from the tenant pursuant to section 72(1) of the *Act* and may deduct this sum from the tenants' security deposit.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days** after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

The remainder of the landlords' application is dismissed with leave to reapply.

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 13, 2011.

Residential Tenancy Branch