



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL, MNR, MNSD, MND, 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, cost of repairs and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim.

The notice of hearing was served on the tenant on June 27, 2011, by courier. The landlord filed 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.

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, the cost of repairs, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started in October 1986. The monthly rent is \$530.00 due in advance on the first of each month. The tenant paid a security deposit of \$187.50.00.

The landlord testified that the tenant failed to maintain the rental unit in a manner that it would be safe to live in. The landlord filed photographs to depict the condition of the unit. In the interest of the health and safety of the tenant, on January 30, 2011, the landlord served the tenant with a two month notice to end tenancy for landlord use. The landlord intended to renovate and restore the unit so that it would be safe to live in. The tenant did not dispute the notice, but failed to move out on the effective date of the notice.

However, prior to the hearing the tenant informed the landlord that he would be moving out on July 18, 2011 and at the time of the hearing, he was in the process of doing so. The landlord has applied for an order of possession and for a monetary order in the amount of \$829.65 to cover the cost of repairs and unpaid rent. The landlord filed evidence to support her monetary claim.

During the hearing the landlord stated that she would accept the security deposit plus applicable interest in full and final settlement of all her monetary claims against the tenant.

Analysis

Based on the sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy, on January 30, 2011 did not make application, pursuant to Section 49 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 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 her claim of \$829.65 for unpaid rent and repairs. Since the landlord has agreed to accept the security deposit plus applicable interest in full settlement of her monetary claim, I order the landlord to retain this amount.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain the security deposit and applicable interest in full and final settlement of her monetary claim against the tenant.

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: July 19, 2011.

Residential Tenancy Branch