



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, MNR, MNDC, 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 in person. 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 requested that his application to retain the security deposit be dismissed with leave to reapply. Since the tenant is currently in occupation of the rental unit, I allow the landlord's request. 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 \$750.00 due on the 1st of the month and does not include utilities. The tenant paid a security deposit of \$375.00. The tenant failed to pay full rent for April 2011. On June 10, 2011 the landlord served the tenant in person with a ten day notice to end tenancy, in the presence of a witness. The landlord filed proof of service of the notice to end tenancy.

The tenant did not pay rent and as of the day of the hearing the tenant owed \$635.00 for April 2011 and \$750.00 for each of the months of May, June and July 2011, for a total of \$2,885.00. The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order for \$2,935.00 which consists of unpaid rent plus the filing fee (\$50.00).

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 June 10, 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 \$2,885.00 for unpaid rent. Since the landlord has proven his case, he 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 amount due of \$2,935.00. 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 **\$2,935.00**.

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: July 26, 2011.

Residential Tenancy Branch