



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, MNDC, 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, and the filing fee. The landlord also applied to retain the security deposit in satisfaction of his claim.

Since the tenancy has not yet ended the landlord withdrew his claim to retain the security deposit with a request that he be permitted to make application for his claims for damage against the security deposit after the tenancy ends. Accordingly, I dismiss his application to retain security deposit with leave to reapply. Therefore, this hearing only dealt with the landlord's application for an order of possession and a monetary order for unpaid rent and the filing fee. 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, and the filing fee?

Background and Evidence

The tenancy started in December 2010. The monthly rent is \$3,000.00 due in advance on the first of each month. The landlord stated that the tenant failed to pay rent in June and on July 01, 2011; the landlord served the tenant with a ten day notice to end tenancy. The tenant also failed to pay rent for July and August and currently occupies the rental unit. The tenant agreed that he owed a total of \$9,000.00 in unpaid rent for June, July and August 2011

The landlord is applying for an order of possession effective two days after service on the tenant.

Analysis

Based on the sworn testimony of 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 July 01, 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 also find that the landlord is entitled to a total of \$9,000.00 for unpaid rent for June, July and August 2011. Since the landlord has proven his case, he is also entitled to the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of 9,100.00. 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 for **\$9,100.00**.

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: August 29, 2011.

Residential Tenancy Branch