

DECISION

Dispute Codes:

CNR, CNC, OPR, MNR, FF.

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord had applied for:

- An order of possession pursuant to Section 55;
- A monetary order for rent owed, pursuant to Section 67;
- A monetary order for the recovery of the filing fee, pursuant to Section 72.

The tenant had applied for the following:

- An order to cancel the notice to end tenancy for rent, pursuant to Section 46;
- An Order to cancel the One-Month Notice to End Tenancy for Cause

As the tenant did not appear to testify in favour of his application, the tenant's application was dismissed without leave to reapply and the hearing on the landlord's application proceeded in the tenant's absence.

At the outset of the hearing, the landlord advised that the tenant had vacated the unit and that an Order of Possession was no longer being sought. However, the landlord was still seeking a monetary order for two months rent in the amount of \$2,400.00.

Issues to be decided:

Is the landlord entitled to a monetary compensation for unpaid rent based on the Ten-Day Notice?

Background and Evidence

Based on the testimony of the landlord, the background is as follows. The tenancy started on May 1, 2011 with rent of \$1,200.00 and \$600.00 security deposit paid. The landlord testified that the tenant moved out around September 1, 2011 leaving rental arrears of \$2,400.00. A copy of the Ten-day Notice was in evidence. The landlord was seeking a monetary order for \$2,400.00 for rent and the , \$50.00 cost of filing.

Analysis:

I find that section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement. A landlord can issue a Notice to End Tenancy for Unpaid Rent or Utilities under section 46 of the Act when rent is in arrears.

I find that the tenant owed rental arrears of \$2,400.00 and failed to pay the arrears within five days of receiving the Notice which would have served to automatically cancel the Notice. I therefore find that the Notice for unpaid rent was supported under section 46 of the Act. Based on the evidence, I find that the landlord is entitled to a monetary order for rent owed.

Conclusion

I find that the landlord is entitled to \$2,450.00 comprised of \$1,200.00 rental arrears and the \$50.00 cost of filing this application. I order that the landlord retain the security deposit and interest of \$600.00 leaving a balance owed \$1,850.00 and I hereby grant the landlord an order for \$1,850.00. This order must be served on the Respondent and may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant's application is dismissed in its entirety, without 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 September 2, 2011

Residential Tenancy Branch