

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, late fees and the filing fee. The landlord also applied to retain the security deposit. 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, late fees, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on July 05, 2011. The monthly rent is \$850.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$425.00.

The landlord stated that the tenant failed to pay rent for September and on September 02, 2011; the landlord served the tenant with a ten day notice to end tenancy. The tenant did not make any payment after receiving the notice to end tenancy and continues to occupy the rental unit. At the time of the hearing the tenant owed rent for October as well. The parties agreed that at the time of the hearing, the tenant owed a total of \$1,700.00 in unpaid rent plus \$50.00 for late fees. The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$1,700.00 for unpaid rent, \$50.00 for late fees plus \$50.00 for the filing fee for a total of \$1,800.00.

Analysis

Based on the sworn testimony of the 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 September 02, 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 \$1,750.00.00 for unpaid rent and late fees. Since the landlord has proven her case, she is also entitled to the filing fee of \$50.00. I order that the landlord retain the security pet deposits of \$425.00 and accrued interest of \$0.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,375.00. 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 **\$1,375.00.**

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: October 12, 2011.

Residential Tenancy Branch