



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent and the filing fee.

The notice of hearing was served on the tenant on September 15, 2011 by the landlord to the tenant in person, in the presence of a witness. 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 and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on January 01, 2011. The monthly rent is \$550.00 due in advance on the first of each month. The rental unit is located in the basement of the landlord's home. The landlord lives upstairs. The tenant failed to pay rent for July, August and September and on September 01, 2011 the landlord served the tenant with a ten day notice to end tenancy. This notice was served on the tenant by posting it on the front door of the rental unit.

The landlord stated that the tenant did not pay rent for October and continues to occupy the rental unit. At the time of this hearing, the tenant owed the landlord rent for four months. The landlord has applied for an order of possession effective two days after serving it on the tenant and for a monetary order in the amount of rent for four months (\$2,200.00) plus the filing fee (\$50.00) for a total of \$2,250.00.

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 September 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 find that the landlord has established a claim of \$2,200.00 for unpaid rent. Since the landlord has proven his case, I find that he is also entitled to the recovery of the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$2,250.00. 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 **\$2,250.00**.

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 14, 2011.

Residential Tenancy Branch